1857.

SUPREME COURT OF THE UNITED STATES.

No. 104.

JOHN H. BENNETT AND E. P. HUNT, ADMINISTRATORS OF JOHN D. AMIS, DECEASED,

vs.

SAMUEL F. BUTTERWORTH AND MARY EMILY, HIS WIFE.

APPEAL FROM THE DISTRICT COURT, U. S., FOR THE DISTRICT OF TEXAS.

INDEX.

	Original	Print.
Bill of complaint	2	1
Exhibit A, filed with bill	6	4
Statement of facts	17	12
Amended bill	18	13
Subpœnas and marshal's return	21	14
Affidavit of Bennett	24	16
Affidavit of E. P. Hunt	25	17
Cause referred to master	26	17
Answer of J. H. Bennett	27	18
Exhibit X, filed with answer	33	22
Answer of E. P. Hunt	34	23
Plea of Bennett	38	26
Interlocutory decree	40	27
Master's report	41	28
Testimony before the master for the complainants	46	30
Testimony before the master for the defendants	54	35
Accounts filed by defendants	61	41
Exceptions to master's report	66	45
Motion for re-reference	68	46
Affidavit of Bennett	68	46
Master's report confirmed	69	47
Order of court to appoint a receiver	71	48

GIDEON, print.

	Original.	Print.
Notice to master, by counsel for complainants	72	49
Henry B. Martin proposed as receiver	73	49
Notice to E. P. Hunt and service	74	50
Notice to J. H. Bennett and service	75	50
Richard B. Daswell appointed receiver	76	51
Bond of receiver	76	51
Order of court, directing receiver, &c.	78	52
Report of receiver	79	53
Final decree	80	54
Motion for, and appeal granted	81	54
Appeal bond	83	55
Accounts referred to and filed with Bennett's answer	84	56
Affidavit of E. P. Hunt and accompanying accounts filed by Bennett	95	59
Affidavit of E. P. Hunt and accompanying account filed by Bennett	99	66
Clerk's certificate	101	71

In the district court of the United States, for the district of Texas, December term, A. D. 1848.

SAMUEL F. BUTTERWORTH and Mary Emily, his wife,
vs.
JOHN H. BENNETT and E. P. HUNT, administrators of John D. Amis, deceased.

Transcript of the record in this cause for the Supreme Court of the United States.

THE STATE OF TEXAS,
District of Texas, to wit:

At a district court of the United States, having and exercising the powers and jurisdiction of a circuit court of the United States, for the district of Texas, began and held at the city of Galveston, in said district of Texas, on the first Monday in December, in the year of our Lord one thousand eight hundred and forty-eight, when there were present, the honorable John C. Watrous, judge of said court; James H. Cocke, esquire, marshal; and Thomas Bates, clerk. And among other were the following proceedings, to wit:

SAMUEL F. BUTTERWORTH and Mary Emily, his wife,
vs.
JOHN H. BENNETT and E. P. Hunt, administrator of the estate of John D. Amis, deceased.

In chancery.

Be it remembered, that heretofore, to wit, on the twentieth day of December, in the year of our Lord one thousand eight hundred and forty-eight, the said Samuel F. Butterworth and Mary Emily, his wife, by their attorneys, Samuel Yerger and Robert Hughs, filed in the district court here his petition, complaining against the said John H. Bennett and E. P. Hunt, which petition is in the words and figures following, to wit:

Original bill.

To the honorable John C. Watrous, judge of the district court of the United States, for the district of the State of Texas, exercising circuit court powers.

Samuel F. Butterworth and Mary Emily, his wife, citizens and residents of the State of New York, bring their bill of complaint against John H. Bennett and E. P. Hunt, citizens and residents of the city of Galveston, and State of Texas, the last of whom is administrator of the goods and chattels, rights and credits, of John D. Amis, late of said State of Texas, deceased, who died intestate.

And therefore your orator and oratrix, humbly complaining, show unto your honor, that on or about the 8th day of April, 1846, the said

John D. Amis, being then in full life, was seized and possessed of the following negro slaves for life, to wit: Henry, a negro man, about thirty-seven years of age in January, 1847; and Matilda, his wife, about thirty-three years of age at the same time; and their three children, Henrietta, a girl, about sixteen years of age at the same time; Indiana, a girl about ten years of age at the same time; Leonidas, a boy, about eight years of age at the same time; a negro man, named Arthur, or Artur, a bricklayer and plasterer, about thirty years of age at the same time; and Cameron, a mulatto man, about thirty-two years of age at the same time. And upon that day, in the city of New Orleans, where your orator and oratrix then resided, the said John D. Amis, by deed or bill of sale in writing, under seal, in consideration of the natural love and affection which he had for your oratrix, who is the daughter of the said John D. Amis, conveyed and transferred to your oratrix the said negroes, and all the right and title which he had to the same; all which will fully and at large appear by reference to said deed or bill of sale herewith filed, marked A, and prayed to be taken as part of this bill.

And your orator and oratrix aver, that since said conveyance and transfer, or before, there had been an increase of said negroes, to wit: Theodora, a girl, now about seven years of age; Havana, a girl, about five years of age; and Laura, about two years of age, all children of Matilda. That after the execution of said bill of sale, or deed, the said John D. Amis returned to the State of Texas, where he was then residing, and subsequently departed this life some time in the summer of the same year, having at the time of his death the said negroes in his possession, but without any title or claim to the same other than possession.

That after the death of the said John D. Amis the said E. P. Hunt, by the probate court of the county of Galveston, in said State of Texas, was appointed administrator, &c., as aforesaid, of the said John D. Amis, deceased. And your oratrix had well hoped that, by an application to said administrator there would be no difficulty, and upon application said negroes, with their increase up to this time, would have been delivered up to her; but now, so it is, may it please your honor, upon application of your oratrix by your orator for her, it was ascertained that the said negroes were in the possession of the said John H. Bennett, and not in the possession of said administrator. And the said Bennett claims to hold said negroes by virtue of an absolute bill of sale for said negroes, executed in the month of June, in the year 1845, in the lifetime of the said John D. Amis, and by virtue of the said bill of sale from the date of the same, or some time thereafter, has had said negroes in possession, using them for his own benefit, or receiving the profits of the hire of the same, and refuses to deliver them to your oratrix, though when applied to by your orator for your oratrix he has acknowledged that the said bill of sale was made without any consideration paid at the time for the same, and was in fact given to provide a security for an existing indebtedness to him, the said Ben-

nett, and for future advances to said John D. Amis. And your orator, for your oratrix lately demanded the said negroes of said Bennett, but he refused to deliver them, unless he was first paid the amount of his debt, which he estimates at about thirteen hundred dollars; at the same time alleging that the hire of said negroes, or the use of them, was not sufficient to compensate him for the interest due on his claim, when your oratrix and orator allege, as they believe, that the hire or use of said negroes, at a reasonable price, is far above any claim which said Bennett has against said John D. Amis or his estate. And your oratrix, by your orator, proposed to said Bennett to pay the amount justly due him from said Amis, provided he would then deliver said negroes to your oratrix by your orator as aforesaid; but said Bennett refused to go into an account with your oratrix or deliver said negroes, pretending that he was compelled to retain said negroes, subject to the trusts of some deed made to him by said Amis in his lifetime, though at the same time acknowledging said deed had never been perfected by delivery or otherwise. And your orator and oratrix further state, that said negroes, or most of them, are valuable, and will produce high prices for their hire. And they do verily believe that the debt, (if any *any* was ever really due,) by the use and hire of said negroes, has long since been paid, and upon taking an account said Bennett will be indebted to your oratrix; all which is contrary to equity and good conscience, and tends to the injury of your oratrix in the premises, and for, and as much as, &c. To the end, therefore, that the said John H. Bennett and E. P. Hunt may be made defendants to this bill, and upon their several and respective corporal oaths true and perfect answers thereto may be compelled to make, but more especially that the said John H. Bennett and E. P. Hunt may, according to the best of their respective knowledge, information, and belief, full, true, direct, and perfect answer make to the interrogatory hereinafter set forth, as by the note here under written they are required to answer; that is to say:

Whether the allegations, averments, and charges, in this bill set out and stated, are or are not true; or, if untrue in the whole or in part, in what respect they differ from said averments, allegations, and charges, giving time, place, and circumstances of said differences, and giving the true place and manner of the execution of any paper deed or bill of sale, under which said Bennett claims or claimed said negroes, and the consideration for the same; and that by a final decree, to be rendered herein, the said John H. Bennett may be compelled to account with your oratrix for the hire of the negroes aforesaid, giving said Bennett credit for any sum or sums which he may by competent proof make out to be due and owing by said Amis or his estate; and that, upon ascertaining the balance due on the account, should the same be in favor of your oratrix, that she have a decree for the same, and a decree that said negroes be delivered to her; but if the balance is against her, then that said E. P. Hunt, of the effects of said Amis, pay the same within a time to be prescribed by your honor, and your orator

thereby have redemption of said negroes; and that if your oratrix is mistaken in the relief hereby asked, she may have such other or further relief as the nature of her case may require; and that, until a final decree be rendered herein, a receiver in this cause of said negroes may be appointed.

May it please your honor to grant unto your orator and oratrix the United States writ of subpœna, directed, &c., commanding, &c.; and your orator and oratrix, as in duty bound, will ever pray.

SAML. YERGER and
ROBERT HUGHS,
For complainants.

THE UNITED STATES OF AMERICA,
District of Texas, to wit:

This day Samuel Butterworth personally appeared before me, Archibald H. Hughs, commissioner of affidavits in the district aforesaid, and made oath in due form of law that the matters stated in the foregoing bill of his own knowledge are true; and those of information he believes to be true.

SAML. F. BUTTERWORTH.

Subscribed and sworn to this 18th day of December, A. D. 1848.
A. M. HUGHS, *Comr.*

"*Exhibit A.*"

Filed with the original bill of complainants, and prayed to be taken as a part thereof; which exhibit is in words and figures following, to wit:

CITY OF NEW ORLEANS, *State of Louisiana.*

Exhibit A to original bill.

Know all men by these presents, that I, John D. Amis, of the State of Texas, have this day, in consideration of the natural love and affection which I bear to my daughter Mary E., wife of Samuel F. Butterworth, of the city and State aforesaid, conveyed, and do hereby transfer, to her, the said Mary E., all the right, title, claim and interest, in law or equity, which I may now have, or may at any time heretofore have had, in any part or all of the property, real or personal, specified and embraced in the annexed deed of conveyance; to have and to hold, in her own proper right and name forever, free from the claim of myself or any other person claiming under or through me. In testimony whereof I have hereuno set my hand and affixed my seal, this 8th day of April, 1846.

JOHN D. AMIS. [SEAL.]

June 4th, 1849, 9 a. m.

Witness—JOS. W. CARROLL,
W. W. HUMPHRIES.

THE STATE OF LOUISIANA,
Parish and city of New Orleans.

I, Albert Child Ainsworth, commissioner for the State of Texas, to act in the city of New Orleans, State of Louisiana, duly appointed, and under oath qualified, do hereby certify, that on this ninth day of February, 1848, before me appeared Jos. W. Carroll, of New Orleans, to me well and personally known, and he being in the premises duly and solemnly sworn, deposed and declared, that he was present to the deed of donation on the reverse hereof written, and signed and executed by John D. Amis.

That he saw the donor subscribe the same, and heard him acknowledge that he had subscribed and executed the same for the purposes and the consideration therein stated, and that he, said appearer, had signed the same as a witness at the request of the said donor, John D. Amis.

In faith whereof I grant these presents, at New Orleans, under my signature and seal of office, this day above named.

[SEAL.] A. C. AINSWORTH,
Commissioner.

THE STATE OF TEXAS, *county of Galveston.*

I, Oscar Farish, clerk of Galveston county court, and recorder for said county, hereby certify, that the annexed assignment from J. D. Amis to Mary E., wife of Samuel F. Butterworth, with the deed in trust thereto attached and annexed, was filed for record June 4th, 1849, at 9 a. m., and recorded same day at 3 p. m., book H, pages 610, 611, 12, 13, and 614; the instrument of assignment on page 613; the deed in trust attached to this assignment being unauthenticated, would not have been recorded by the clerk, except upon the request of the party presenting the same, (he having first been apprised of the fact of its not being a State for record,) and from the fact of its being annexed to and referred to in the said assignment.

The following endorsement made by the clerk on the margin of the record: "This deed in trust recorded, because it was annexed and attached to the assignment from J. D. Amis to Mary E., wife of Samuel F. Butterworth, and in said assignment referred to, and also at the special request of the holder of the assignment, M. Yerger, by whom said assignment was presented for record."

In witness whereof I hereto subscribe my name, affix the seal of said county court, June 4, A. D. 1849.

[SEAL.] OSCAR FARISH.

STATE OF TEXAS, *county of Galveston.*

I, Oscar Farish, clerk of the Galveston county court, and recorder for said county, do hereby certify, that the annexed assignment from J. D. Amis to Mary E., wife of Samuel F. Butterworth, with the deed of trust thereto attached and annexed, from the said John D. Amis to Wil-

liam D. Amis for the benefit of sundry persons therein named, was filed for record in my office, August 1st, 1849, at 11 a. m., and recorded the same day at 3 p. m., book H, pages 639, 40, 41, and 42.

In witness whereof I hereto subscribe my name, and affix seal of said county court, August 2d, A. D. 1849.

OSCAR FARISH, *Clerk.*

This indenture, made and entered into the fifteenth day of December, A. D. 1839, between John D. Amis, of Columbus, in the county of Lowndes, in the State of Missi., of the first part, William D. Amis, of same place, of the second part, and Andrew Harris, N. & H. Weed & Co., Hand, Ferris & Co., Burnham & Condict, Brown, Brothers & Co., J. & A. Sweeny, De Tenest Maunice, and James J. Vanallen, of the State of New York; Sandford & Cleaveland, of the State of Alabama; Abner C. Hubbard, of the State of Connecticut; Kettlewell, Wilson and Hilliard, of the State of Maryland; Isaac Miller & Co., of the State of Tennessee; Sam. F. Butterworth, of the State of Missi.; the Tombigby Railroad Company, of the State of Missi.; Elisha H. Sharp, Thomas Brownrigg, William M. Carract, Henry Buckhannan, and Dunstan Banks, of the State of Missi.; Desha, Sheperd & Co., of the State of Alabama; White & Blume, of the State of Virginia; William B. Lockhart, of the State of North Carolina; the Mississippi Union Bank, and Thomas Amis, parties of the third part.

Whereas the said John D. Amis is justly indebted to the parties of the third part, to wit, to the said Andrew Harris, in the sum of nine hundred and six dollars; to the said N. & H. Weed, in the sum of eleven hundred and one $\frac{8}{100}$ dollars; to the said Hand, Ferris & Co., in the sum of six hundred and sixty-nine $\frac{60}{100}$ dollars; to the said Burnham & Condict, in the sum of five hundred and twenty-eight $\frac{40}{100}$ dollars; to the said Brown, Brothers & Co., in the sum of fifteen hundred and twenty-one $\frac{20}{100}$ dollars; to the said Tenest Maunice, in the sum of three thousand one hundred and twenty $\frac{66}{100}$ dollars; to the said Sandford & Cleaveland, in the sum of seven hundred and forty-six $\frac{64}{100}$ dollars; to the said Abner C. Hubbard, in the sum of five hundred and three $\frac{33}{100}$ dollars; to the said Kettlewell, Wilson and Hilliard, in the sum of two thousand and thirteen $\frac{3}{1}\frac{3}{00}$ [dollars]; to the said Isaac Miller & Co., in the sum of six thousand one hundred and eighteen $\frac{8}{100}$ dollars; to the said J. and A. Toucey, in the sum of three hundred dollars; to the said James J. Vanallen, in the sum of fourteen hundred and sixty-four dollars; to the said Saml. F. Butterworth, in the sum of three thousand four hundred and forty $\frac{8}{100}$ dollars; to the Tombigby Railroad Company, in the sum of twenty-one thousand five hundred and ninety-seven $\frac{9}{100}$ dollars; to the said William M. Carract, in the sum of seven hundred dollars; to the said Henry Buckhannan, in the sum of six hundred dollars; to the said Dunstan Banks, in the sum of seven hundred dollars; to the said Desha, Bradford & Co., in the sum of fifteen hundred dollars; to the said White and Blume, in the sum of twenty-one hundred and eighty-seven $\frac{0}{100}$ dollars; to the said William B. Lockhart, in the sum of nine thousand five hundred dollars; to the

Mississippi Union Bank, in the sum of four thousand dollars; to the said Thomas Amis, in the sum of nine thousand and fifty dollars; and is desirous of securing the payment of the same. And whereas, also, the said John D. Amis is also indebted to one James Sloan, in the sum of fifteen hundred dollars, by note, upon which said note Elisha H. Sharp is security; and is also indebted to one Alfred Battle in the sum of fifteen hundred dollars, by note, upon which the said Elisha H. Sharp and the said Thomas J. Brownrigg are security. And whereas the said John D. Amis is also desirous of securing and saving harmless the said Sharp and Brownrigg from any liability they may have incurred by reason of becoming security for the payment of said notes:

Now, therefore, this indenture witnesseth, for the purposes aforesaid, and in consideration of the sum of ten dollars to him, the said John D Amis, in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, he, the said party of the first part, hath granted, bargained, sold, and conveyed, and by these presents doth grant, bargain, sell, and convey, unto the said party of the second part, all and singular the following described tracts of land:

The northeast quarter of section No. five, the east half of the northwest quarter of section No. five, the south half of section No. five, the southwest quarter of section No. four, the southeast quarter and the west half of section No. six, the north half of the southeast quarter of section No. seven, the whole of section No. eight, the west half and the northeast quarter of section No. nine, the west half of the northwest quarter of section No. sixteen, all in the township No. eighteen north, of range No. seventeen east, situate and being in the county of Lowndes, and State of Mississippi; together with all and singular the tenements, hereditaments, and appurtenances thereto belonging, or in anywise appertaining, and all the rights, title, and interest of the said party of the first part, of, in, and to the same, and every part and parcel thereof; and also all and singular the following described personal property, now being in the possession of the party of the first part, and upon the premises herein before described, viz., a negro man named Randall, his wife [and] their six children; a negro man named Ben Waller, his wife and one child; a negro man named Jo. Long, his wife and their four children; a negro man named Harbord, his wife and their two children; a negro man named Peyton, his wife and their three children; a negro man named Green, his wife and child; a negro woman named Mary Daniel, her sister named Emeline, and child named Early; a negro woman named Creasy, and her child; a negro man named Charles, his wife and child; a negro man named Henry, his wife and their three children; a negro slave named Squire; a slave named Cameron; a slave named Louisa; a slave named Jo. Crump, his wife and their two children; a slave named Hardy and his wife, a slave named Barrack, his wife and their four children; a slave named Tom. Peckins, his wife and their three children; a slave named Billy Pourter, his wife and their three children; a slave named Calo and his wife; a slave named Ben Drew, his wife and child; a slave named Nat, his wife and their three children; a slave named Austin; a slave

named Bethias; a slave named Eaton; a slave named Aaron, his wife and their three children; a slave named John Gray, his wife and child; a slave named William, his wife and their three children; a slave named Short Dave, his wife and their four children; a slave named Cary, his wife and their three children; a slave named Dick, and his his wife; a slave named Monk; a slave named Faner, his wife and their four children; a slave named Luke, his wife and their two children; a slave named Ben Wyck, his wife and their two children; a slave named Celia, and her six children; a slave named Hal, his wife and their three children; a slave named Arter, his wife and their three children; a slave named Peter Shepherd, and his wife; a slave named Dil; a slave named Latham; a slave named Hester; a slave named Sally, and child named John; a slave named Loui, his wife, and child named Thurlow; a slave named Edmund, his wife and their two children; a slave named Nunlas, his wife and child; a slave named Gid. Long, his wife and their four children; a slave named Simon, his wife and their five children; a slave named Jim Cary, his wife and their two children; a slave named Charles Gardner, his wife and child; a slave named Matilda, and her four children; a slave named Peter Berges, his wife and child; a slave named Daniel Whitaker, and his wife; a slave named Frank Wyck; a slave named Ephram; a slave named George Hurd; a slave named Daniel Coker; a slave named Moses; a slave named Bendion; a slave named Henry; a slave named Stephen; a slave named Peter; a slave named Jim Isbel; a slave named Elijah; a slave named Kisiah; a slave named Bethias; and a slave named Hampton, and a child named Fanny, all of them slaves for life, (a more particular description of which said slaves is to this deed annexed.) Also fifty-five head of mules, nine head of horses, eighty head of cattle, forty head of sheep; and also all the farming utensils, household and kitchen furniture now being upon said premises.

To have and to hold the same to him, the said party of the second part, his successors forever, upon the trusts and conditions following, that is to say: First, this trust and conveyance is upon the trust and condition, that if the said party of the first part shall pay off and satisfy to the said parties of the third part, or to their assigns, on or before the first day of March, A. D. 1840, the several sums that then and at that time may be due to them, and shall also pay off and satisfy the residue of said debts as they may severally become due, (a schedule of which is hereto annexed, marked "A;") and shall also save harmless the said Elisha H. Sharp and Thomas J. Brownrigg, for the payment of the said notes upon which they are security as aforesaid, then and in that event this conveyance shall cease, become void and inoperative. Secondly, this conveyance is upon the further trust and condition, that if the said party of the first part shall make default in the payment of the said sums of money so due, and to become due as herein specified, that then and in that event it shall be the duty of the said party of the second part, upon being requested by either of the parties of the third part, to proceed to sell and dispose of the said above described property,

at public auction, upon the premises, at the present residence of the said party of the first [part,] after first giving twenty days public notice of such sale, by posting such notice in three of the most conspicuous places within the town of Columbus; the said party of the second part shall sell so much of the said property, for cash, as shall be sufficient to pay off and satisfy the debts then due the said parties of the third part, as mentioned in schedule "A," hereto annexed. The residue of said property (if any shall remain unsold) he shall proceed to sell upon a credit until the 15th day December, 1843, the time when the debts mentioned in the schedule, marked "B," shall become due and payable; and shall take notes from the purchasers secured by lien upon the said property; which said notes, when they become due and payable, the said party of the second part shall proceed to collect in the most summary manner; and from the proceeds of such collections he shall pay off and satisfy the said debts as mentioned in schedule "B," and the residue remaining in his hands, he shall (after paying all expenses incident to this trust) pay over to the said party of the first part; and out of the proceeds of the first sale, for cash, he shall pay off and satisfy the several sums of money there may be due to the said parties of the third part, as specified in the annexed schedule, marked A, and shall execute due conveyances to the purchasers of said property. It is further agreed, that the said party of the first part shall and may remain in the peaceable and quiet possession of said above described property, until default shall be made as aforesaid. And the said party of the second part hereby covenants well and faithfully to execute the trusts hereby reposed in him by this deed.

In witness whereof the said parties of the first and second part have, on the day and year aforesaid, hereto set their hands and seals.

JOHN D. AMIS, [SEAL.]
WM. D. AMIS. [SEAL.]

Signed, sealed, and delivered in presence of us—
EDMUND A. RANDOLPH,
CHAMBERLAIN H. ANDERSON,

Schedule "A."

Andrew Harris,	note due	1–4	March, 1840	$906 00
N. & H. Weed & Co.,	"	"	"	1,101 85
Hand, Ferris & Co.,	"	"	"	669 60
Burnham & Condict,	"	"	"	528 40
De Forest, Maunice & Co.,	"	"	"	3,120 66
Sanford & Cleveland,	"	"	"	746 64
Abner C. Hubbard,	"	"	"	503 33
Kettlewell, Wilson & Hilliard,	"	"	"	2,013 33
Isaac Miller & Co.,	"	"	"	6,118 83
J. & A. Lowery,	"	"	"	300 00
S. F. Butterworth,	"	"	"	3,440 83
James J. Van Allen,	"	"	"	1,464 00

William M. Coract,	book ac't		January	700 00
Henry Buckhannan,	"	"	"	600 00
Dunstan Banks,	"	"	"	700 00
Desha, Bradford & Co.,	"	"	"	1,500 00
White and Blume,	"	"	"	2,187 07
William B. Lockhart,	"	"	"	9,500 00
The Missi. Union Bank,	note	"	"	4,000 00
Thomas Amis,	"	"	"	9,050 00
James Sloan,	"	"	"	1,500 00
Alfred Battle,	"	"	"	1,500 00

Schedule "B."

The Tombigby Railroad Co.,	note due	Dec.	15, 1843,	6,597 99
The Tombigby Railroad Co.,	"	"	"	15,000 00
				$73,269 88

A list of slaves conveyed by annexed deed.

1. Randal, his wife Nancy, and six children, Fed, Amarillis, John, Randal, Philip, and West.
2. Ben Waller, his wife, Lucy and child, named Amy.
3. Jo Long, his wife, and four children, named Dolly, Tom, Mack, and Louisa.
4. Harbard, his wife, and two children, named Ellen and Cain.
5. Peyton, his wife, and three children, named Preston, Romeo, and Virgil.
6. Green, his wife, and child, Willey.
7. Mary Daniel, her sister Emeline, and child, Early.
8. Creasey and one child, named Mason.
9. Charles, his wife Mathilda, and child, named Tammillion.
10. Henry, his wife Bridget, and three children, named Mack, Porteus, and Albertice.
11. Squire, Cameron Louisa.
12. Jo Crump, his wife, and two children, Willis and Richmond.
13. Hardy and his wife.
14. Banack, his wife, and four children, named Prince, Chancy, Silla, and infant.
15. Tom Perkins, his wife, and three children, named Amiss, Aggy, and Elijah.
16. Billy Pointer, his wife, and three children, named Venus, Gibbs, and Jane.
17. Cato and his wife.
18. Ben Drew, his wife, and child, named Spenser.
19. Nat, his wife, and three children, named Queen, Walsey, and infant.
20. Austin, Bethias, and Eaton.

21. Aaron, his wife, and three children, Ruben, Rachael, and Aaron.
22. John Gray, his wife, and one child, named Mary Jane.
23. William, his wife, and three children, named Anthony, Cloe, and infant.
24. Short Dave, his wife, and four children, named Albert, Prince, Nichl., and Betsey.
25. Carey, his wife, and three children, named Giles, Henderson, and infant.
26. Dick, his wife, and Monk.
27. Farrar, his wife, and four children, named Silas, Maria, Catty, and infant.
28. Luke, his wife, and two children, named Telba and infant.
29. Ben Wyck, his wife, and two children, named Ellick and infant.
29. Celey and her six children, named Ailsy, Isaiah, Israel, Levy, Ananias, and infant.
30. Hal, his wife, and three children, named Lauretta, Phillis, and Almanack.
31. Arter, his wife, and three children, named Skedman, Billy, and (Dove.)
32. Peter Shepherd, and his wife Delny, and Latham and Hester.
33. Sally and her child, John, and Loui, and his wife and child, Thurlow.
34. Edmund, his wife, and two children, Lord Byron and Lude.
35. Winlas, his wife, and child, Lucy.
36. Gid Long, his wife, and four children, named Jo Fisher, Fanny, Penny, and Lurina.
37. Simon, his wife, and five children, named Haywood, Harckless, Wesley, Narcissa, and infant.
38. Jim Carey, his wife, and two children, Easter and Hilliard.
39. Charles Gardner, his wife, and child, Maria.
40. Matilda and her four children, named Nicodemus, Henrietta, Indiana, and Leonidas.
41. Peter Briges, his wife, and child, Winney.
42. Daniel Whitaker and his wife, Frank Wyche, Epham, George Hurd.
43. Daniel Coker, Moses, Bendion, Henry, Stephen, Peter.
44. Jim, Isbel, Elijah, Ketiah, Bethias, and Hampton.

THE STATE OF MISSISSIPPI,
Lowndes county.

Personally appeared before me, Wm. Murdock, a justice of the peace in and for said county, the within named Edmund A. Randolph, whose name appears to the within deed as a witness, with Chamberlain H. Ananson thereto; who, being first sworn, deposes and says, that he saw the within named John D. Amis and William D. Amis, whose names are subscribed to the within deed, sign, seal, and deliver the

same for the purposes therein expressed. That he, the said deponent, subscribed his name as a witness thereto, in the presence of the said John D. Amis and William D. Amis, and in the presence of each other, on the day and year therein mentioned.

Given under my hand and seal, this 8th day of February, 1840.

WILLIAM MURDOCK,
Justice of the peace.

THE STATE OF MISSISSIPPI,
Lowndes county.

I, William P. Puller, clerk of probate for said county, do hereby certify, that the annexed foregoing and within trust deed, and schedule thereto annexed, was deposited in my office for record, on the 13th day of February, A. D. 1840; and the same, with the certificate of probate and this certificate, have been duly recorded in my office, in deed book No. 15, pages 235, 36, 37, 38, 39, 40, 41, and 42.

Given under my hand and seal of office, at Columbus, the 14th day of February, A. D. 1840.

WM. P. PULLER, *Clerk.*

Upon the foregoing deed of trust the following receipt is endorsed, in words and figures following, to wit:

Received, June 2d, 1840, from William D. Amis, the sum of $7,354 $\frac{95}{100}$, in part payment of the following claims, specified in within deed on John Lowry, James Van Allen, S. F. Butterworth, Henry Buckhannan, Dunstan Banks, Desha, Bradford & Co., Wm. B. Lockhart, the Missi. Union Bank, and Thomas Amis.

SAMUEL F. BUTTERWORTH.

By agreement of the parties, made in open court, it is ordered, that the following statement of facts in re[la]tion to what occurred upon the presentation of the paper mentioned as evidence, by complainants, be entered on the minutes.

JAMES LOVE, *Clerk.*

This instrument was offered to be read as evidence by the complainants, and the defendants objected thereto, because its execution was not so proven as to make it evidence in this cause. It appearing, from the certificate of the clerk, that the instrument had been recorded on 6th June, 1849, and it appearing that it was taken off the file without leave of court, and it did not appear that the same was filed among the papers of the suit three days before the commencement of the trial, and it did not appear that notice of such filing was given to either of the defendants, or to either of their attorneys of record; the court sustained the objection, and refused to permit the said instrument to be read. It was then taken off the file by the solicitors for the complainants, by leave of the court; and, as appears from the clerk's certificate thereon, it was recorded, on 1st of August, 1849, and the same was again offered

by the complainants, to be read as evidence, on 2d of August, 1849, the day of the date of said certificate; the same objection was made to its introduction as evidence by the solicitors for the defendants. By agreement of parties these objections were reserved for the hearing, and the instrument was read subject thereto.

And afterwards, on the 19th day of January, complainants, Samuel F. Butterworth and wife, filed their amended bill, in the words and figures following, to wit:

Amended bill.

To the honorable John C. Watrous, judge of the district court of the United States, for the district of Texas, in chancery sitting.

Samuel F. Butterworth and Mary Emily, his wife, bring this their amended bill to the bill heretofore filed in this honorable court by them, against John H. Bennett and E. P. Hunt; and therefore your orator and oratrix, humbly complaining, shew your honor: That somewhere about the same time that the bill of sale, mentioned in their original bill, was executed and delivered by the said John D. Amis to the said John H. Bennett, of the said negroes in said bill mentioned, the said John D. Amis executed a like bill of sale to said John H. Bennett, for four other negroes, then in his, said Amis', possession, to wit, Betsey, Ellick, Billy, and Lindsey; which bill of sale, though absolute on its face, was intended also to secure the said John H. Bennett in the debt and advances mentioned in the said original bill, and was executed for and upon no other consideration whatever, good or valuable in law, as your orator and oratrix verily believe. And they have been informed, and so allege and charge, that said negroes are valuable, and that *the* their hire or use from the time of the execution of said bill of sale, up to the present time, amounts, at least, to thirty-five dollars per month, as they believe; and they are advised that the value of the hire or use of said negroes is to be taken into account, when it is being ascertained how much of the debt due by said Amis to said John H. Bennett has been paid. And your orator and oratrix further allege, state, and charge, that as they have been informed, and verily believe, from near to or about the time of the execution and delivery of the bill of sale, in the original bill mentioned, and mentioned in this amendment, the said John H. Bennett has had the superintendence, management, and control of all the said negroes, and the use of their services, or has taken their hire and appropriated the same to his own use, or has negligently permitted the same, or a portion thereof, to be at large, not attempting to or earning any thing, but being a charge for their maintenance and support, when, if properly managed, they would have yielded a handsome monthly income; and said Bennett, as your orator and oratrix have been informed and believe, now seeks to be discharged, by reason of his neglect, from any account for those not having earned any thing, and to charge for their maintenance and support; all which is contrary to equity, and for, and as much as, &c.

To the end, therefore, that this may be received as an amendment to the said original bill, and that the said John H. Bennett and E. P. Hunt may be made defendants thereto, and that they, if they may, if they can, shew why your orator and oratrix are not entitled to the relief or decree hereby asked. That said Bennett and Hunt be compelled according to the best and utmost of their respective knowledge, remembrance, and belief, answer and say whether the facts alleged and charged, or either of them in this bill, are or are not true, *of it* not, in what respect and that by decree to be rendered by your honor, your orator and your oratrix may have such relief or decree as is prayed for in said original bill, together with other such as they may be entitled to by this amendment, or such other or further [relief] as they may be entitled to in the premises.

May it please your honor to grant unto your orator and oratrix the United States writ of subpœna, directed, &c., commanding, &c.; and your orator and oratrix as in duty bound will ever pray.

ROBERT HUGHS,
SAMUEL YERGER,
For complainants.

THE UNITED STATES OF AMERICA,
District of Texas, to wit:

This day, Samuel Yerger, of counsel for complainants in the foregoing bill of complaint, personally appeared before me, A. M. Hughs, commissioner, &c., and made oath in due form that the statements and charges in the foregoing amended bill are made by him in the absence of his client; and that so far as they are made of his own knowledge are true; and so far as stated of the knowledge or information of others, he believes them to be true.

SAMUEL YERGER.

Sworn and subscribed, January 19, 1849.

A. M. HUGHS, *Commissioner.*

And thereupon, to wit, on the twentieth day of December, in the year of our Lord one thousand eight hundred and forty-eight, a subpœna was issued to John H. Bennett, one of the defendants in said cause, which subpœna is in the words and figures following, to wit:

Subpœna.

UNITED STATES OF AMERICA,
District of Texas.

The President of the United States of America, to John H. Bennett, greeting:

You are hereby commanded to appear personally before the honorable the United States district court, exercising the powers and jurisdiction of a circuit court of the United States, at a court to be holden in the city of Galveston, in and for said district, on the first Monday of

February next, or wheresoever the said court shall then be, to answer a bill exhibited against you and another, by Samuel F. Butterworth and Mary Emily, his wife; and to do further and receive what the said court shall have considered in that behalf.

And this you are not to omit under the penalty of two hundred and fifty dollars.

Witness the honorable John C. Watrous, judge of said court, and seal of court, at the city of Galveston, this 20th day of De-
[L. S.] cember, A. D. eighteen hundred and forty-eight, and 73d year of the independence of the United States.

JAMES LOVE, *Clerk.*

The defendant is required to enter his appearance in the above suit in the clerk's office on or before the first Monday of February next, otherwise the bill will be taken as confessed.

On which subpœna the following endorsement of service is made:

Marshal's return.

Received 20th December, 1848, and executed same day by serving the defendant with a true copy of this subpœna.

JAMES H. COCK, *Marshal.*
By H. B. MARTIN, *D. Marshal.*

And thereupon, to wit, on the twentieth day of December, in the year of our Lord one thousand eight hundred and forty-eight, a subpœna was issued to E. P. Hunt, one of the defendants in said cause; which subpœna is in words and figures as follows, to wit:

Subpœna.

UNITED STATES OF AMERICA,
District of Texas.

The President of the United States of America, to E. P. Hunt, greeting:

You are hereby commanded to appear personally before the honorable the United States district court, exercising the powers and jurisdiction of a circuit court of the United States, at a court to be holden in the city of Galveston, in and for said district, on the first Monday of February next, or wheresoever the said court shall then be, to answer a bill exhibited against you and another by Samuel F. Butterworth and Mary Emily, his wife, and to do further and receive what the court shall have considered in that behalf.

And this you are not to omit under the penalty of two hundred and fifty dollars.

Witness the honorable John C. Watrous, judge of said court, and seal of court, at the city of Galveston, this 20th day of Decem-
[L. S.] ber, A. D. eighteen hundred and forty-eight, and 73d year of the independence of the United States.

JAMES LOVE, *Clerk.*

The defendant is required to enter his appearance in the above suit, in the clerk's office, on or before the first Monday of February next; otherwise the bill will be taken as confessed.

JAMES LOVE, *Clerk.*

On which subpœna is the following endorsement of service, to wit:

Marshal's return.

Rec'd 20th Dec., 1848, and executed the same day by serving the defendant in person with a true copy of this subpœna.

JAMES H. COCKE, *Marshal.*
By H. B. MARTIN, *D. marshal.*

And on the 5th day of February, A. D. 1849, the said defendants, John H. Bennett and E. P. Hunt, by their solicitor, make, upon the book of rules of the said court, the following entry, to wit:

Appearance.

S. F. BUTTERWORTH and Wife
vs.
JOHN H. BENNETT & E. P. Hunt.

The defendants by their solicitors now enter their appearance.

McQUEEN, *for Defendants.*

Feb. 5th, 1849.

And on the 17th day of January, A. D. 1849, John H. Bennett filed the following affidavit, to wit:

Affidavit of Bennett.

Personally came and appeared before me, James Love, clerk of the United States district court, for the district of Texas, John H. Bennett, who being duly sworn, deposes and says: That John D. Amis, deceased, late of Galveston county, was, at the time of his death, indebted to this affiant in the sum of thirteen hundred and twenty-seven dollars and fifty-two cents, for advances made to said Amis before that time; which debt and the interest thereon, nor any part thereof, has ever been paid to this affiant. Affiant further says, that he has made other advances for the estate of said Amis, since his death, to a large amount, on the faith of certain negro slaves sold and conveyed to said affiant by said Amis; which amount can only be ascertained upon a settlement of his accounts with the estate of said Amis.

Affiant further states, that neither Samuel F. Butterworth nor his wife, —— Butterworth, have ever paid or offered to pay him any part of the indebtedness above named. JNO. H. BENNETT.

Subscribed and sworn to on 17th January, 1849.

JAMES LOVE, *Clerk.*

Filed 17th January, 1849.

JAMES LOVE, *Clerk.*

And on the 17th day of January, A. D. 1849, the defendants in this cause filed the affidavit of E. P. Hunt, in words and figures following, to wit:

Personally came and appeared before me, James Love, clerk of the United States district court, for the district of Texas, E. P. Hunt, who, being sworn, deposes and says: That John D. Amis, deceased, late of Galveston county, at the time of his death, was indebted to John H. Bennett in the sum of thirteen hundred and twenty-seven dollars and fifty-two cents, for advances made to said Amis before his death; which debt and the interest thereon, nor any part thereof, has ever been paid to said Bennett. Affiant further states, that said Bennett has made other advances for the estate of said Amis, since his death, to a large amount, on the faith of certain negro slaves, sold and conveyed to said Bennett by said Amis; which amount can only be ascertained upon a settlement *upon a settlement* of his accounts with the estate of said Amis.

E. P. HUNT.

Subscribed and sworn to on the 17th January, 1849.

JAMES LOVE, *Clerk*

Filed January 17, 1849.

JAMES LOVE, *Clerk.*

Afterwards, to wit, on the 18th day of January, 1849, the counsel for complainants, in open court, moved to refer the matters of account between John H. Bennett, one of the defendants, and the estate of John D. Amis, dec'd; whereupon the court made the following order, to wit:

Motion to refer to master.

Upon motion of complainants, by counsel, it is ordered that it be referred to James Love, esq., one of the masters of this court, and that he look into the complainant's [bill], and the affidavits filed, and ascertain the amount for principal and interest due the defendant Bennet, for debt and advances due by and made to John D. Amis in his lifetime, and the amount of the value of the hire of the negroes in the bill mentioned, from the time they came to the possession of said Bennett to this time, and report, &c.

And afterwards, to wit, on the 30th day of January, 1849, the court made the following order, to wit:

Master's report set aside.

Upon coming in of the report of the master herein, the said report not being such as required by the order of reference, it is ordered by court that the said report be set aside, and that the said master again proceed upon the matter of said reference, and that said master state an

account between the parties, and report whether the said John H. Bennett, by the use of, or the hire of, the slaves *of the slaves* in the bill and amended bill mentioned, has or has not been paid the amount found to be due to him on the taking of said account.

And afterwards, on the 22d day of February, 1849, on motion of complainants, by counsel, made in open court, the following order was made by the court, to wit:

Order of re-reference.

On motion of complainants, by their counsel, it is ordered by the court that this cause be again referred to James Love, esq., master in chancery, to take and state an account therein upon the following points, viz., that he look into the said bill, and state what was due and owing by John D. Amis in his lifetime to said Bennett, up to the time of his death, with the interest thereon; that he take proof of the value of the hire of the negroes mentioned in the bill and amended bill filed by complainants, since the death of said Amis up to this time, allowing to the said Bennett all just credits for what he may have expended for said negroes; and also, whether he has used proper means, in the hiring of said negroes, to get their full value, and strike a balance between the indebtedness of said Amis, in his lifetime, and the amount of the proper hire of said negroes.

And afterwards, on the 27th day of February, A. D. 1849, on motion of defendants, by their counsel, made in open court, the following order was made, to wit:

On motion of defendants, by counsel, it is ordered that they have until the first Monday in May next to file their answers in this cause.

And afterwards, to wit, on the 24th day of March, John H. Bennett filed his answer, with the annexed exhibits, in words and figures following, to wit:

Answer of Bennett.

Bill in equity in the district (circuit) court of the United States for the district of Texas.

SAMUEL F. BUTTERWORTH, and MARY EMILY, his wife, vs. JOHN H. BENNETT and E. P. HUNT.

The separate answer of John H. Bennett to the bill of complaint and amended bill of Samuel F. Butterworth and Mary E. Butterworth, his wife, or to so much thereof as he is advised it is material he should answer. This respondent, saving and reserving to himself all and all manner of exceptions to the many errors and informalities apparent upon the face of said bill and amended bill as if the same had been demurred to, answering, says: That it is true, as stated in said bill, that

John D. Amis, now deceased, was in his lifetime seized and possessed of certain negroes, the names and description of which correspond substantially with the names and description as set forth in said original and amended bill. At the time of the death of said Amis, the negroes aforesaid were not in the possession of said Amis, but in the possession of this respondent, having, in his lifetime, been transferred to this respondent in the manner and for the purposes hereinafter set forth. It is true that the said John D. Amis died in Texas, not, however, about the time stated in said bill, but, according to the recollection of this respondent, about the first of August, A. D. 1847. This respondent knows nothing, of his own knowledge, of any transfer made of any of said negroes by said John D. Amis to complainants, or either of them, except so far as he learns from the bill of sale, or deed of gift, exhibited as part of said complainants' bill; and he requires strict proof touching all the transactions therein alleged, in reference to any such transfer or conveyance.

He admits that E. P. Hunt, who is also defendant to this bill, is the administrator of the estate of the said deceased, and that said negroes are not, and never have been, in the possession of said Hunt, but in the possession of this *of this* defendant by virtue of two certain bills of sale, or instruments of writing, executed by said John D. Amis in his lifetime to this respondent; the character and purport of which, and the purposes for which said instruments of writing were executed, will be hereinafter fully explained.

He also admits that he is unwilling to surrender the possession of said negroes to the complainants, or either of them, holding them, as he does, for the protection of his own rights; and inasmuch as he is advised that he is under no obligation to yield to said complainants the possession of said negroes until the claim which they set up to the same shall have been established; but he entirely denies that said complainants have ever offered, as charged in the bill, to pay and satisfy the just demands of this respondent against the estate of said Amis, for which said negroes are bound.

It is not true that the time and use of said negroes has been sufficient to discharge the claims of this respondent against the estate of said Amis. This respondent has been at great expense in sustaining and supporting said negroes, owing to the fact that they have been subject to protracted attacks of sickness, and for a large portion of the time since they have been under his control have not been a source of profit, but of expense.

He denies that the hire [of] four negroes, mentioned in complainants' amended bill, have been worth thirty-five dollars per month, as therein alleged.

It is not true, as stated in complainants' amended bill, that he has mismanaged said negroes, and that on account of his neglect said negroes have been valueless. On the contrary, this respondent avers, that since they have been under his control he has paid every attention to them which could be required of him, and if said property has

not been a source of profit, it has not been owing to any negligence on his part, but to the fact above stated, that they have been sick during a portion of the time, and are not now, and never have been, capable of yielding the large income which complainants aver ought to have been received from their hire. During the lifetime of John D. Amis, this respondent allowed the said Amis to receive the greater portion of the profits accruing from the use and hire of said negroes, and though they were under the control of this respondent, he did not strictly insist upon his right to appropriate all the proceeds of the labor of said negroes to the payment of his claim. Since the death of said Amis, the said negroes have been managed by this respondent, in such a manner as he believed would render them most valuable. It is true, they have been kindly treated by him, and when sick have had medical attention, and on this account may have been a greater expense than if they had been neglected or harshly treated. It frequently happened, in consequence of the dullness of the times, that said negroes, when in good health, could not hire out at any price.

This respondent is now willing, and has ever been, to render a just account of all the proceeds arising from the hire and use of said negroes to the estate of said John D. Amis, or any person legally entitled to demand such account. He insists only upon being reimbursed for the expenses incurred by him on account of said negroes, and the payment of his just claim against the estate of said Amis.

This respondent will hereinafter fully set forth and exhibit a statement of the accounts between himself and the estate of said John D. Amis, that the court may be informed how far the allegations and charges contained in complainants' original and amended bill are true, and in what respect they vary from the truth and fact.

And for further answer this respondent says, that on the fourteenth day of June, A. D. 1845, the said John D. Amis made and executed a bill of sale, absolute upon its face, conveying to this respondent certain negroes, to wit, John, Henry, Arthur, Cameron, Leonidas, Havana, Calista, Indiana, Henrietta, Matilda, and Theodocia, one of which said negroes, John, was afterwards sold by consent of said Amis, and the proceeds of said sale appropriated to the payment of the claims of this respondent against said John D. Amis. Another, Calista, was sold, and the proceeds of said sale appropriated to the use and benefit of said Amis. From the date of said bill of sale this respondent was entitled to the possession of said negroes, and did exercise control over them, permitting said Amis, however, up to the time of his death, as above stated, to have the use and benefit of the profits arising from the hire or labor of said negroes; said conveyance is herewith filed as part of this answer, marked exhibit "X."

The said bill of sale was executed for the purpose of securing to this respondent the payment of a large sum of money then due by said Amis, and also to secure him for any future advances made to said Amis; a true and correct account of all advances made to said Amis, and of all sums received from said Amis, either on account of the hire

of the negroes or otherwise, was kept by this defendant. Upon the death of said Amis a true and correct account was made out by this respondent, of all pecuniary transactions between himself and said Amis up to the 1st of August, 1847, by which it appeared that there was then a balance due this respondent of thirteen hundred and twenty-seven dollars and fifty-two cents. The said account was presented to E. P. Hunt, the administrator of said estate, and was approved by him on the 10th of April, 1848, and was examined and approved as a correct subsisting demand against the estate of said Amis, on the 19th of March, 1849, by the chief justice of Galveston county, an officer having jurisdiction of the subject matter; all of which will be proved upon the hearing of this cause.

And this respondent further answering says, that some time in April, A. D. 1846, to the best of his recollection, said John D. Amis, being then in life, and wishing *and wishing* further to secure to this respondent the payment of the money due to him by said Amis, as well as any further advances which might be made by him to said Amis, executed an instrument of writing conveying to this respondent four negroes, Betsy, Ellich, Billy, and Lindsey. Said conveyance has been lost from the possession of this respondent, and the contents of the same will be proven on the trial of this cause.

Said last mentioned negroes were, from the date of said instrument, placed under the control of this respondent, and in his possession; but the said Amis was permitted to enjoy any portion of the profits arising from their hire and labor. And this respondent, as in the case of the other negroes conveyed by the first mentioned bill of sale, did not strictly insist upon his right to appropriate the whole amount of the proceeds arising from their hire to the extinguishment of his claim.

This respondent herewith files, as exhibit "Y," an account showing the amounts received by him for the hire and labor of all the negroes included in the two instruments of writing above referred to, and the expenses incurred by him for the maintenance of said negroes from the first day of August, 1847, as well as the interest and commissions which he claims for the use of the money advanced, and as compensation for his trouble for receiving and disbursing said sums, and for the management of said negroes. He also begs leave to refer to the accounts furnished by him heretofore, under the order of the court, which are filed among the papers of the cause; from which it will appear that there was due on the 20th of March, 1849, the sum of fourteen hundred and forty-five dollars and ninety-one cents, which he claims as a demand against the estate of said John D. Amis, and for the payment of which he is advised the said negroes now in controversy are liable.

This respondent, having fully answered all the charges and allegations contained in the original and amended bill of complainants, prays the court that his claim against the estate of said Amis be recognised in whatever decree may be made in the cause. And further, that the equity of redemption, which said estate or any person claiming under said Amis may have, be foreclosed, and that your honor will decree

that said negroes, or such portion as may be sufficient, be sold for the satisfaction of his claim, and for such other and further relief as to justice and equity may appertain.

McQUEEN & WILLIE,
Solicitors for deft. Bennett.

UNITED STATES OF AMERICA,
District of Texas.

This day personally appeared before me, A. M. Hughs, commissioner, &c., John H. Bennett, who declares on oath that the facts and allegations stated in the foregoing answer of his own knowledge are true, and those stated upon the information of others he believes to be true.

JNO. H. BENNETT.

Sworn to and subscribed before me, this 24th day of March, 1849.
A. M. HUGHS, *Com'r.*

The following exhibits were filed with the answer of John H. Bennett, to wit:

Exhibit X.

The following exhibit, marked X, was filed with the answer of John H. Bennett, one of the defendants in this cause, and is referred to therein, to wit:

Filed 24th March, A. D. 1849.

JAMES LOVE, *Clerk,*
By A. M. HUGHS, *Deputy clerk.*

REPUBLIC OF TEXAS, *county of Galveston.*

Know all men by these presents, that I, John D. Amis, of the Republic of Texas, county and city of Galveston, have this day bargained, sold, and conveyed, unto John H. Bennett, of republic, county, and city aforesaid, the following named negroes, for and in consideration of the sum of five thousand dollars, the receipt of which I hereby acknowledge: Negro boy John, Henry, Arthur, Cameron, Leonidas, Havanna, Calista, Indiana, Henrietta, Matilda, Theodocia.

The right and title thereof I hereby warrant and defend unto him, the said John H. Bennett, his heirs and assigns, forever.

In witness whereof I hereby set my hand and fix my seal, "scroll being used in lieu of seal," this fourteenth day of June, one thousand eight hundred and forty-five.

JOHN D. AMIS.

Witness—DAVID S. TERRY,
WM. H. McCUTCHAN.

Upon which said exhibit the following certificate of probate and record is endorsed by the clerk of the county court of Galveston county, to wit:

And afterwards, to wit, on the twenty-sixth day of March, A. D. 1849, E. P. Hunt, one of the defendants, filed the following answer, to wit:

In the district and circuit court of the United States, for the district of Texas.

SAMUEL F. BUTTERWORTH and Wife
vs.
JOHN H. BENNETT & E. P. HUNT. } In chancery.

Answer of Hunt.

The defendant, E. P. Hunt, who is made a party to this bill as administrator of the estate of John D. Amis, deceased, saving and reserving to himself all manner of exceptions to the many errors and informalities apparent on the face of the original and amended bill of complainants, answering says:

That it is true, as stated in said bill, that he is the administrator of the estate of said John D. Amis, deceased, who died in Texas on the 25th day of July, 1847, to the best of his remembrance and belief. This respondent, when appointed administrator as aforesaid, found the negroes mentioned in the original and amended bill in the possession of John H. Bennett, who held said negroes under two certain bills of sale, executed by said Amis in his lifetime, for the purpose of securing to said Bennett the payment of a large sum of money due to him, said Bennett. This respondent believes said negroes to have been bona fide the property of said Amis, subject to said encumbrance. This respondent is ignorant of any transaction between said Amis and the complainants, or either of them, by which said negroes, or any portion of them, were conveyed by said Amis to the complainant, Mary Emily Butterworth, except so far as he is informed from the deed of gift filed as part of complainants' bill; and, as the representative of said estate, he insists upon strict proof touching any such transaction as is therein charged.

This respondent further says, that the account of John H. Bennett against the estate of John D. Amis was presented to him, as administrator, and by him approved on the 10th day of April, A. D. 1848. The said account amounted, on the first of August, 1847, to thirteen hundred and twenty-seven dollars and fifty-two cents; and he was satisfied of the correctness of the same, from the fact that all pecuniary transactions between said Bennett and said Amis were known to this respondent.

Said Bennett still has possession and control of the negroes mentioned in complainants' bill, holding them by virtue of the two instruments of writing above referred to.

And for further answer this respondent says, that he is informed and believes, that on the first day of April, 1846, in the lifetime of said John D. Amis, there being then many matters of difference and controversy between said Amis and said Samuel F. Butterworth, the said

parties submitted all such matters to the arbitrament of Jas. H. Smith and W. W. Humphries, binding themselves to abide by the award of said arbitrators, by an instrument of writing, signed and executed on the 31st of March, 1846, to which said instrument one Junius Amis was also a party.

Said arbitrators, among other things, awarded—

1st. That said Junius Amis and Sam'l F. Butterworth should, on the first day of October, 1846, deliver to said John D. Amis two certain negro men named Charles and Elijah, or in default thereof should be bound jointly to pay said Amis, within ten days thereafter, the sum of twenty-five hundred dollars.

2d. That said Junius Amis and Butterworth should deliver to said John D. Amis, on the 1st day of February, 1848, eleven negroes, at the plantation of said Junius, which should be worth an average of five hundred and fifty dollars each, or should pay him, said Amis, at that rate each for any failure in delivering said negroes.

3d. That said Butterworth and Junius Amis should pay to said John D. Amis the sum of five thousand two hundred dollars, to be paid as follows, to wit, six hundred dollars cash in hand, nine hundred dollars on the 1st of Janury, 1847; two hundred dollars on the first of May, 1847; two hundred dollars on the first of September, 1847; and five hundred dollars on the 20th December, 1847; and thirty-two hundred dollars on the first of February, 1848.

4th. That said parties, Butterworth and Junius Amis should execute their bond within three days after the date of said award to said John D. Amis, transferrable to such person as such Amis might choose, and said Butterworth should dismiss any and all suits which he might have pending against said John D. Amis.

5th. That said John D. Amis, on his part, should transfer all the interest he might have to any portion of the estate formerly owned by him, to Mary E. Butterworth, wife of said S. F. Butterworth, and surrender certain papers pertaining to the business of said Junius Amis and Samuel F. Butterworth.

And this respondent avers that, to the best of his information and belief, his intestate, the said John D. Amis, did fully comply with said award on his part, and the said deed of gift, he is informed and believes and so charges, was executed by said John D. Amis in compliance with the said award. And further this respondent avers, upon the best of his knowledge, information, and belief, that said Samuel F. Butterworth failed to comply with all the terms of said award; although he expressed himself satisfied therewith, and promised faithfully to abide by the same. That neither said Butterworth nor said Junius Amis have paid the said sums of money, nor delivered the said negroes according to the terms of said award; wherefore this respondent now prays that said Samuel F. Butterworth, by the decree of this court, be compelled to pay the sums of money so due his intestate, and the value of the negroes which he has failed to deliver; or if the said award be of

no force and effect, then that the said deed of gift, so executed by said deceased in compliance therewith, be cancelled and declared null.

This respondent, in regard to said award, also states that said John D. Amis transferred to John H. Bennett, the right, title, and interest which he had to the same, which transfer was made also as a security to said Bennett for the payment of the money due from said Amis to said Bennett, and the said Bennett only insists upon the said transfer as a security as aforesaid, and not as conveying to him absolutely the interest of said Amis therein.

An[d] this respondent having fully answered all the allegations and charges which he is advised is material for him to answer, contained in the original and amended bill of complainants, prays as above for a decree in favor of the estate of said John D. Amis, against said complainant, Samuel F. Butterworth, for the amount of money due to the said estate by said complainant; and further, that the right and title to the negroes now in controversy be declared to be in said estate, subject only to such legal encumbrances as, in the opinion of the court, said negroes are bound by; and as in duty bound, &c.

McQUEEN & WILLIE,
Solicitors for defendants.

UNITED STATES OF AMERICA,
District of Texas.

This day personally appeared before me, A. M. Hughs, commissioner of the district court of U. S., E. P. Hunt, who being sworn says, that the facts and allegations in the foregoing answer, as stated of his own knowledge, are true; and those stated upon the information of others he believes to be true.

E. P. HUNT.

Sworn to and subscribed before me, this 26th day of March, A. D. 1849.

A. M. HUGHS, *Commissioner.*

And afterwards, to wit, on the twenty-third day of July, A. D. 1849, John H. Bennett, one of the defendants in this cause, filed the following plea, which by consent of parties was set for argument; argument to be brought on with the hearing on bill and answers; said pleading is in words as follows, to wit:

In the district court of the United States, district of Texas, spring term, 1849.

SAMUEL F. BUTTERWORTH and Mary E. Butterworth, his wife, vs. JOHN H. BENNETT and E. P. Hunt. } In chancery.

The separate plea of John H. Bennett, one of the defendants to the

amended bill of complainants, Samuel F. Butterworth and Mary E. Butterworth, his wife.

Plea of Bennett.

This defendant, by protestation, not confessing or acknowledging all or any of the matters and things in said complainants' said amended bill mentioned to be true, in such manner and form as the same are therein and thereby set forth and alleged, doth plead in bar thereto, and for plea saith, that the said complainant, Samuel F. Butterworth, on the 28th day of January, 1848, filed in the honorable the district court of the United States, for the district of Texas, his petition in an action at law, wherein it was alleged that said complainant was the lawful owner of the negroes named and described in the amended bill aforesaid; that the same had come to the possession of this defendant by finding, and that said negroes were unlawfully detained by him, the defendant; and said complainant prayed, among other things, that he might have and recover against this defendant judgment for said negroes in specie, and damages for the wrongful detention of the same; to which said petition this defendant filed his answer; and this defendant avers, that on the 11th day of June said action at law came on for trial; and upon the trial thereof the said complainant recovered judgment against this defendant for the said slaves, or if the same could not be had, then it was adjudged that said complainant recover of this defendant the sum of twelve hundred dollars, the value of said negroes, and six and a fourth cents damages for the detention of the same; to which proceedings this defendant begs leave to refer to sustain this his plea; they being of record in your honorable court.

And therefore this defendant pleads the said suit and judgment at law in bar of said complainants' amended bill, and humbly prays the judgment of this honorable court whether the said complainants ought to have a decree upon their said amended bill as therein prayed.

McQUEEN & WILLIE,
Sol's for def't Bennett.

And afterwards, on the fourth day of June, A. D. 1849, the complainants, by their counsel, entered the following rule upon the rule book, to wit:

SAMUEL F. BUTTERWORTH and Wife, complainants,
vs.
JOHN H. BENNETT et al., defendants.

The complainants set this cause for hearing on bills, answers, and exhibits.

ROBERT HUGHS.
SAM. YERGER,
For complainants.

And afterwards, to wit, on the first day of August, 1849, the com-

plainants, by their counsel in open court, moved the court to permit them to withdraw certain papers in said cause filed; whereupon the court made the following order, to wit:

Upon motion of complainants, by their solicitors, it is ordered that they have leave to withdraw from the file exhibit "A" to the bill, for the purpose of being recorded, and that he return the same when recorded.

Interlocutory decree.

And afterwards, to wit, on the 20th day of April, A. D. 1850, this cause came on to be heard and determined before the honorable John C. Watrous, judge, &c., upon the bill, answer, and exhibits, in presence of counsel, as well for the complainants as for the defendants.

Whereupon the court thought fit to order, adjudge, and decree, and it is accordingly ordered, adjudged, and decreed, that the bill of sale of the negro slaves in the complainants' original bill mentioned is a mortgage given to secure the defendant Bennett the sum of money that might [be] due to him for advances to John D. Amis, deceased, and the complainants are entitled to redeem mortgage; and thereupon the said court thought fit further to order, adjudge, and decree, and it is further ordered, adjudged, and decreed, that it be referred to James Love, one of the trustees of this court, to take an account of what is due the defendant John H. Bennett, for principal and interest on the said mortgage; and the said master is also to take an account of the hire of the negro slaves aforesaid [that] came to the hands of the said defendant John H. Bennett, or any other person or persons by his order, or for his use, or which he without his wilful default might have recovered; and in taking the said account the said master is to credit the said defendant, John H. Bennett, with any extraordinary expenditures which were necessary to preserve the health of the said negroes, or raise the infants or children too young to work; and in taking or reporting upon the said account the said master is in every respect to be governed by the principles and directions of the rules of the Supreme Court made for the government of this court; and the said master shall report with all convenient despatch; and all other matters are reserved for further directions, or until the coming in of said report.

J. C. WATROUS.

And in pursuance of the foregoing decree James Love, one of the masters in chancery of this court, proceeded to make the inquiries therein directed, and on the tenth day of June the said master filed his report thereupon as follows, to wit:

UNITED STATES DISTRICT COURT,
District of Texas.

SAMUEL F. BUTTERWORTH, complainant,
vs.
BENNETT AND HUNT, defendants.
} In chancery.

Masters' report.

In pursuance of a decree of court made at the April term of this court, in the above entitled cause, referring to me as master in chancery for report:

First. What amount is due defendant, Bennett, for principal and interest on his mortgage.

Second. To take an account of the value of the hire of the slaves in controversy that have come to the hands of defendant, or that he might have received without his wilful default.

Third. To allow the defendant credit for any unusual or extraordinary expenditures necessary to preserve the health of the negroes, or in support or raising the negroes too young to work. I have proceeded, in the discharge of the duties assigned, to take proof upon the several matters referred, and beg leave to report:

First. That it is proven by the admission of the parties that John D. Amis departed this life on the 1st day of August, 1847; that there was then due the defendant, Bennett, $1,327 $\frac{5}{100}$; that the slaves in controversy were at that time in the possession of Bennett, and have ever since been under his control.

Second. It appears in evidence that Bennett treated the slaves with unusual indulgence and humanity, and in the manner that was pursued by Amis in his lifetime. He rented houses for them, furnished them food and clothing with great liberality, and proper medical attendance when necessary. That he sometimes hired them out by the day, and sometimes by the month, with few exceptions, in the city of Galveston. It is also in proof that the negroes frequently hired themselves to others, and were paid by the employers. The defendant has filed and proven an account, which is herewith submitted, marked No. 1, of the receipts and expenditures under this mode of management, which I have not thought proper to investigate, as I have assumed a different mode of management to have been necessary to exempt him by the terms of the decree from "wilful default."

I have therefore proceeded to take an account of the value of the hire of the slaves. I begin the statement of the account from the 1st day of November, 1847, for the following reasons: Amis, as has been stated, died 1st August, 1847. I have not supposed the defendant to have been in "wilful default" for a short time after Amis' death. It is in proof yellow fever was in Galveston, and commenced its ravages 20th Sept., 1847; there is no proof of the length of time it prevailed. It is also in proof that all the negroes were attacked, but some of the smaller children. I have, therefore, allowed three months as the time lost in sickness and convalescence, and $100 as extraordinary expenditures for medical attendance, food, house rent, and nursing. This sum is the amount claimed by defendant, and admitted by complainants to be the proper amount, if allowed at all as a proper charge. I herewith submit a statement of accounts between the parties, upon the basis I have assumed, marked No. 2, which shows a balance due complainants, on the first day of June, 1850, of $318 90. I have not allowed any

credit for medicines or medical bills, except during the prevalence of yellow fever, because the evidence on which I have based the allowance for hire was the value of the hire without any deduction for lost time or any other contingency.

For the evidence in detail, upon which I have predicated the allowance I have made, and the conclusions upon which I base this report, I refer to the written evidence of complainants, marked No. 3, and that of defendants, marked No. 4, which accompany this report. All which is respectfully submitted, June 10th, 1850. JAMES LOVE, *Master.*

Filed June 10th, 1850. JAMES LOVE, *Clerk.*

The following statement of the accounts, made up by James Love, esquire, master in chancery, and is referred to in said master's report as No. 2, and is in words and figures following, to wit:

	Due Bennett, 1st August, 1847			$1,327 52
	Three months interest, to 1st November, 1847, a 8 per ct			26 55
	Extraordinary expenses during the prevalence of yellow fever			100 00
	Due 1st November, 1847			1,454 07
	Interest on this sum one year, to 1st November, 1848			116 32
				$1,570 39
1848.	Nov. 1. By Arthur's hire	$300		
	" Henry's "	250		
	" Cameron "	180		
	" Matilda and family	30		
		760		760 00
	Balance due 1st November, 1848			810 39
	Interest on $810 39 to 1st Nov., 1849, 1 year, at 8 per cent			64 83
				$875 22
	Nov. 1st. By hire of Arthur	$300		
	" " Henry	250		
	" " Cameron	180		
	" " Matilda and family	30		
		760		760 00
	Balance due Bennett 1st November, 1849			115 22
	Interest on same to 1st January, 1850, 7 mos., a 8 per cent			9 21
	Amount due for ser. and int., 12th January, 185			$124 43
1850.	Jan'y 1st. By hire of Arthur....7 months	$175 00		
	" " Henry "	145 83		
	" " Cameron "	105 00		
	" " Matilda and family	17 50		
		443 33		443 33
	Due complainants 1st January, 1850			$318 90
	By medical attendance and medicines.			

JAMES LOVE, *Master.*

Filed June 10th, 1850.

JAMES LOVE, *Clerk.*

The following account was filed by John H. Bennett, one of the defendants in this cause, and is referred to in the master's report as account marked No. 1.

The estate of John D. Amis, dec'd, in account current with John H. Bennett.

1850.		
April 20	To amount of my account allowed by the administrator and approved by the chief justice, due 1st August, 1847.....	$1,327 52
	To interest on same to this date, a 8 per cent.....	289 09
		$1,616 61
	Cr.	
	By amount, balance of account of receipts and disbursements for negroes.....	478 36
	Balance due J. H. Bennett.....	$1,138 25
	JNO. H. BENNETT.	
	Subscribed and sworn to before me, on the 29th April, 1850. JAMES LOVE.	
	To rent of dwelling-house for Matilda and family, from 20th July, 1849, to 20th April, 1850, 9 months, a $5 per month..	45 00
		$1,183 25
	JNO. H. BENNETT, E. P. HUNT.	
	Subscribed and sworn to before me, 7th May, 1850. JAMES LOVE, *Clerk.*	

Filed 4th May, 1850.

JAMES LOVE, *Clerk.*

The following testimony was produced before the master on the part of complainants, on the reference of the matters of account between John D. Amis, deceased, and John H. Bennett, one of the defendants in this cause:

SAMUEL F. BUTTERWORTH vs. BENNETT AND HUNT. } Chancery.

It is agreed by the parties in this cause that John D. Amis deceased 1st August, 1847. That the amount due Bennett on that day was $1,327 52. That 8 per cent. interest is to be calculated upon that sum until paid. It is also agreed that the negroes in controversy have, since 1st August, 1847, been under the management and control of Bennett.

Plaintiffs' testimony.

George Ball, sworn. About a year since he hired Henrietta and Indiana, $11 per month; Henrietta is about 17 years of age; Indiana about ten; does not consider that Indiana's hire is worth anything; she is healthy; Henrietta is not; she frequently complains; does not know what was the matter with her; does not consider the services

of both equal to one good servant. It is not customary to hire servants by the year in Galveston, and take them subject to all contingencies, pay medical bills, &c., and would not so hire one. He cannot state the value of the hire of slaves in Galveston under such circumstances.

Henry Journey. Is a carpenter; knows Henry, one of the negroes in controversy; he is a carpenter; thinks the hire of Henry since 1st August, 1847, is worth $25 per month, subject to no deduction for lost time, to clothe, feed, and pay medical bills.

On cross examination. Says [he] has hired negro carpenters by the month; such work was dull last summer; many carpenters have left Galveston for want of employment; a number of buildings have been erected since 1st August, 1847, and a good deal of repairing done.

Thomas M. League. Knows Arthur, one of the negroes in controversy; he is a carpenter, bricklayer, and plasterer; his hire from 1st August, 1847, is worth $30 per month; the next year $25 per month; since then $30 per month; upon reflection, is of opinion that to clothe, feed, pay medical bills, and no deduction for lost time, $25 per month is the full value of his hire since 1st August, 1847.

On cross examination says: There was a good deal of mechanical employment from 1st August, 1847, to 1st August, 1848; there was less next year; within that period many mechanics left Galveston for want of employment; this had a tendency to make wages higher; it is not usual to hire negroes by the year in Galveston; never has so hired any; does not know that there is any established custom about it.

Captain Erastus Webb. Is captain of [a] steamboat; had Cameron, one of the negroes in controversy, in his employment a month; paid $20 per month; did not clothe him; consider him healthy; was sick a short time with pain in his back; if the boy is healthy he would be worth $15 per month all the year, to feed, clothe, pay medical bills, and no deduction for lost time; it costs less to clothe on a boat than elsewhere; he would not be worth that sum on shore; the difference in clothing some hands would be less than the difference between $15 and $20 per month; he thinks it more expensive to clothe Cameron than some other hands on the boat.

On cross examination says: Cameron left the boat on account of pain in his back; the average price of hands on [the] boat has been $20 per month, the last three years in the Houston trade; wages are higher on boat than on shore, on account of the greater risk of life; they are worth, as laborers on shore, $15 or $18 per month; boats never hire hands by the year, or pay wages when they are sick, or medical bills; would not hire hands by the year in the Trinity trade, but would in the Houston trade, if he knew them.

The proprietors of the boats refuse to hire by the year; would not hire by the year at $15 per month, subject to no deduction for disease, &c. The boy Cameron appeared to be able bodied and healthy until he complained of his back; said he had sprained it; knows nothing of him but what he observed on the boat.

Robert D. Johnson. Knows Arthur; had him hired at $1 $\frac{50}{100}$ per day for a short time; his hire is worth $30 per month by the year, subject to no deduction for sickness, to feed, clothe, and pay his medical bills. Knows Henry; has frequently hired him at $1 75 per day; he is worth $35 or $40 per month, subject to no deduction for contingencies. He knew Arthur and Henry in the lifetime of Amis; he considers them to have been worth as much heretofore as now; does not know what an able bodied negro is worth per annum as a laborer, not being acquainted with that mode of hireing.

On cross examination says: Has not known negro mechanics to be hired by the year; it is not the custom in Galveston to do so. Arthur complained of rheumatism whilst in his employment; Henry was well. The opinion given of the value of their hire is predicated on the presumption they are healthy, and good mechanics, as well as on the fact of the amount he has paid for them here by the day. Has resided in Galveston 13 years; has been in the habit of hireing; never has done so by the year; knows that, since 1st August, 1847, carpenters have not had continual employment; for the last two years it has been dull; many carpenters have left the city; does not believe Arthur or Henry could have been hired by the year in Galveston; has never seen Arthur or Henry idle; has frequently seen them.

George C. Gifford. Is a carpenter; knows Arthur and Henry; has worked with both of them on the same job; but little with Henry, more with Arthur; if sober, Henry is a good rough carpenter; would not, unless compelled, employ him; if sober, he would be worth one dollar per day and found; Arthur would be worth more; is subject to rheumatism; is not an able bodied man; labor for mechanics has been low; has not seen Henry for some time; worked with him only a few days, at different times; the last time he saw him he was working on a fence; was not working well; has not been with him this year; two or three times last year; has seen him more frequently when intoxicated than sober; has not observed any one that exercised control over him; seemed to have his own way; appeared to take work and do it as he pleased; others might have had control over him.

On cross examination says: From his knowledge of Arthur and Henry, would not hire them by the year without a deduction for all contingencies of health, &c.; does not think they could be so hired, or that any mechanic that knew them would so hire them. He would not be bothered with Henry for the value of his services. Since 1st August, 1847, mechanical labor has been dull, because they could ——— a third more elsewhere; $1 50 per day is the price now for carpenters, and find themselves. Arthur, if well, and Henry, if sober, he would not by any means consider as first rate workmen. It has frequently occurred, since 1st August, 1847, that mechanics could not get employment, and, as a consequence, many have left. He superintended the erection of a building for Hunt, commencing in February, 1849; the best carpenters were then employed at $1 50 per day; common workmen at 75 cents and one dollar per day. Arthur was

at work on the building; does not remember how long; has seen Henry at work on a fence for Mr. Hunt. It is Hunt's habit to superintend his workmen; did not see him superintending Henry; did not observe that he was drunk. Has employed a negro carpenter the last three or four months; he pays him $1 25 per day for shop work; $1 40 for outside work; he finds himself; is a better workman than Arthur or Henry. He considers better worth $1 50 per day than either of the others 50 cents.

James Love. Knows nothing of the value of hire in Galveston. A common field hand that is healthy is worth $120 per annum, subject to no reduction for contingencies. Unless security was taken, he would suppose hire would be more likely to be collected monthly than yearly.

Powell R. Edwards. Knows a boy called Henry, a carpenter, now under the control of Bennett; he is a master carpenter; had Henry on hire, four or five years since, about two years. His hire by the year, without deduction for contingencies, is worth $200 per annum since 1st August, 1847; one dollar per day, the owner responsible for contingencies. Henry required to be well managed. He is fond of drink, and unless strictly managed would be worthless. Had difficulty in getting along with him; tried harsh and mild means; united is the best mode of managing him. He would occasionally trespass; he considers him honest and industrious; his only fault is intemperance. Knows Arthur, but not so well as Henry; thinks his hire is worth as much as Henry's, on the same terms.

On cross examination says: That he does not consider Henry entirely healthy; sometimes complains. Knows nothing of the health of Arthur. His estimate of the value of their hire is based on the presumption that their health is as good as when he hired Henry. He does not consider mechanical labor as valuable as when he hired Henry. Mechanical labor has been dull, and many carpenters have left Galveston to seek labor elsewhere. He corrects his testimony by saying that the value of the hire of Arthur and Henry is predicated upon the presumption that the employer has the right to control them without the interference of the owner.

Latham Babcock. Is a carpenter; has resided in Galveston more than two years. He superintended the building of Hunt's house from its commencement to its completion, but the fastenings of a door and window. He received $2 per day; Gifford, and four others, the same wages. Others worked at $1 50 and $1 25 per day; the wages of others he does not know. Arthur worked on the house from 29th January until it was completed, 25th April. Henry worked, he thinks, about half the time; lost a day or two, when he first came down, on a spree. Arthur, to his recollection, lost no time. Henry is a good rough carpenter; comparing him with other hands at work on the house, is worth $1 25 per day. Arthur is a good mason, and worth $1 50 per day. He is worth by the month 35 or 40 dollars;

Henry thirty dollars; he would give those prices if he had a job. Gifford is not a good workman. Upon witness' representation to Hunt, the control was given to witness, and Gifford superintended the painting. To hire by the year, and no deduction for contingencies, Henry is worth $240 or 50 per annum; Arthur, $300. By the month, under like circumstances, Henry is worth $30; Arthur, $35 or $40.

On cross examination says: It has not been customary to hire carpenters by the year; he has not known any so to be hired; business has not been such as to justify that mode of employment. His opinion of the value of their hire is based on the presumption they are sound; he considers them so; there has not been much business done in his line since he resided on the island; not many new buildings erected, but a good deal of job work. But for difficulty in making collections to pay journeymen, he could at all times keep one or two carpenters employed; does not know that any other building was being erected at the time he was working for Hunt; with the exception of a day or two, he could at all times have had employment. Many carpenters have left on account of dull times and low wages; several of the workmen employed by Hunt at $2 per day, were indebted to him; and supposes, under such circumstances, wages would be something higher. White journeymen carpenters are now worth $2 per day and find themselves; Henry is now worth $1 50 per day.

Morgan L. Perry, sworn: Has known Cameron four or five years; is a good negro; had him employed in 1846, and part of 1847; has lately seen him, and does not observe any change in him; thinks him worth $16 per month, without any deduction for contingencies; knows Henry; he is a good negro carpenter; has seen him lately; has frequently seen him drunk, but thinks him easily controlled if properly managed; is worth $25 or $30 per month, subject to no deductions for lost time; does not know Arthur so well; his general health is not so good as Henry's. Since 1st August, 1847, considers him to have been worth $25 per month, subject to no deduction for contingencies. Cameron was twice drunk whilst he had him; corrected him, and cured him of the vice; may have been drunk at other times.

Cross examined: Says that others of the negroes have worked for him since 1st August, 1847; the usual mode of hire in Galveston is by the month. Since 1st August, 1847, many carpenters have left for want of employment; those that remained have had employment; his opinion of the value of their hire is based on the presumption they are now as healthy as usual. Neither Henry or Cameron has any constitutional disease; Arthur complains frequently; does not know his disease; does not think are well managed; it is about the same now as in the lifetime of Amis; would at all times have hired Cameron at $16 per month; offered to do so in 1848; he was valuable to hire, as he had taught him to run the engine of the cotton press.

Thomas M. League, recalled by complainant as rebutting witness. Thinks Mr. Hunt is mistaken in offering to hire him Arthur, as he always *as he always* wished to employ him. He conversed several times

with Hunt about hiring Arthur; he always answered that Arthur could do better when left to make his own bargains; by Hunt's directions, he payed Arthur the hire; Arthur was at work for him during the prevalence of the yellow fever in 1847; does not say that he worked with him all the time *that* it prevailed.

He has no recollection of his having had yellow fever; he finished his job the middle, or later in November; he was well all the time, and did good work; he looks upon him as the most valuable black mechanic he ever saw but one.

Cross examined. Says Arthur worked two or three weeks on his kitchen; had occasionally worked for him before; always employed him when he could get him; occasionally there is a negro that will earn more when left to hire themselves, than when hired by their masters; if negroes have been treated with great indulgence, strict government is the best mode to reform them.

Jessee H. Cleaveland. Has known the carpenter Henry ever since his arrival on the island; has employed him on one or two occasions on small jobs; consider him a pretty good workman; has never paid less than $1 75 per day for him; has hired him without consulting others who had control over him; has seen him intoxicated, not frequently; he is worth $250 per annum, subject to no deduction; knows Arthur; always supposed him to be [a] bricklayer and plasterer; is worth $250 per annum upon the same terms; has not known a mechanic to be hired by the year; the day, week, and month, is the usual mode; if owner is responsible for contingencies, $30 per month would be the value of their hire; the difference in price is fully equal to the difference in the mode of hireing. Witness is a carpenter by trade; has been a master workman; does not now work at the trade.

Henry Journey, re-called: Considers Henry a good workman; has not, since 1st August, 1847, applied to hire either Arthur or Henry, but would, on several occasions, have done so, at $1 25 or $1 50 per day, for Henry for a few days; has not known any carpenter hired by the year; a month is long enough; would not hire by the year; in hiring by the month, the owner would be liable for lost time, &c.; he would hire Henry by the month, subject to no deduction, at $20 or $25; at some seasons he might not hire on those terms; his opinion of the value of his hire is based on the presumption he is healthy.

The following testimony was produced before the master, on the part of defendants, in the reference of the matters of account between John H. Bennett, one of the defendants, and the estate of John D. Amis, dec'd, and referred to in master's report as A, No. "4."

BUTTERWORTH vs. BENNETT.

Defendant's testimony.

John S. Syanor. Knows all the negroes in controversy; has hired Arthur frequently; has had much to do with him; he is sober, industri-

ous, a good and fast workman; is subject to attacks of rheumatism; has frequently discharged him on that account; considers him an unhealthy negro; has no other disease, that he knows, but rheumatism; has frequently called on him to do jobs, when he could not get him on account of attacks of his disease; is well acquainted with mechanical employment in Galveston; his opinion is, that since [the] 1st day of Aug., 1847, three-fourths of the carpenters have left for want of employment; they have continued to leave up to 1850; presumes the reason why the rest did not leave was, that there was more employment for those that remained; has paid Bennett at different times, since 1847, one dollar per day for Arthur, subject to deduction for lost time, which he considers the full value of his services; he hired him at one time for four months, at $25 per month; at his request, Mr. Bennett took him back. It is not the custom to hire in Galveston by the year; to hire by the year, subject to no deduction, thinks Arthur worth $200; would rather hire him as he has, than hire him by the year *a* $200. Previous to 1st August, 1847, knew Henry pretty well; not so well since; his habits from drunkenness were bad; did not employ him on that account; has not seen him drunk since 1st August, 1847; considers him to be worth $200 per annum, subject to no deduction.

Matilda, the mother, Henrietta, Indiana, and all the children, he considers worth $20 per annum, subject to no deduction; he would not himself hire them at any price; the children younger than Indiana are an expense; from his knowledge of the mode of hireing in Galveston, difficulty and uncertainty of payment, is of opinion the best mode of hiring is by the month or day; it is the best mode. Has examined accounts marked "A and B," filed by defendant; the charges are reasonable, and such as are usual; it is doubtful whether Arthur or Henry could have been hired by the year; the negroes had been spoiled by indulgence, by Amis in his lifetime, they are so now from previous indulgence; considers the indulgence given them by Bennett a matter of necessity; if they like their employer, they will do a greater amount of labor than if they dislike him.

Joseph A. Swett. Knows Arthur, and has employed him; thinks him steady and industrious; is subject to rheumatism that sometimes prevents him from laboring; how frequently does not know. Had Henry employed; did not work much; tried hard to induce him, but failed; consider him an irredeemable drunkard; told Bennett unless he shut off the whiskey he would die; was informed by John D. and William Amis, that he was a drunkard; he has seen him sober; he had him employed part of three months; gets as much work out of hands as is usual; he was of little value; the mechanic that conducted his building operations was sober and industrious, and failed to get much work out of Henry; Henry would be of more value in the country, where he could not procure spirits; there is but little employment for negroes in the county, but in the city of Galveston, since 1st Aug., 1847, there have been more mechanics than labor for them; as a consequence many have left; from his knowledge of the state of affairs in Galveston, does be-

lieve Arthur or Henry could have been hired by the year, but at very low prices. Has never known negroes hired by the year in Galveston; the usual mode is by the month; he knew Matilda and family, in Amis' lifetime; they were treated with great indulgence, and were not managed with a view to profit; he permitted them to do pretty much as they pleased; thinks if Amis had lived the indulgence would have continued; this opinion is founded on his knowledge of Amis' conduct towards them; they were brought to Galveston by Amis; they were under Bennett's control in his lifetime, and he informed witness that Bennett was the bona fide purchaser; his opinion of the improbability of hiring them by the year is based on the information of mechanics, and the small amount of labor that has been done in the city.

William R. Smith. Has resided in Galveston since 1844; is a physician; knows all the negroes in controversy; has been their attending physician since 1st Aug., 1847; for eighteen months from that period, there was a great deal of sickness amongst them; some of them affected with protracted diseases, ulcerated legs, miscarriages, and general infirmity; all but an infant or two had yellow fever in 1847, or fever deemed such. Arthur has been less under his charge than the others; he was affected with rheumatism last winter, and [was] much out of employment; did not require much medical attention; from his knowledge of their sickness, and the great indulgence given them, does not consider their services more than equivalent to their support, for 18 months from 1st Aug., 1847; since then they have been more valuable, having less sickness and more work; during the 18 months spoken of, Cameron complained frequently, though his habits were intemperate; Matilda is delicate, she has several children that require support, she has every year a healthy child or miscarriage; Henrietta is delicate; has had inflammation of the womb twice, is not capable of hard work; in the house or as ladies' maid her health might be good, and her services adequate to her employment; since 1st Aug., 1847, does not believe that Matilda, Henrietta, Indiana, and the other children could have been hired so as to pay their expenses; he owns a carpenter, a good but a slow workman; has been unable to hire him out; the usual response, previous to the last twelve months, was that white carpenters could be had at a dollar per day; does not believe negroes could be hired in Galveston by the year; the custom is by the day or month, the owner liable for contingencies; knows Henry; has seen him drunk. Frequently visited Amis in his lifetime; he was an indulgent master, free and easy in his intercourse with them. Unless owner of negroes, in Galveston, has them under his special care, and give them employment in his own business, or hires them to one who has a specified object, he considers them the most unprofitable property. Since 1st Aug., 1847, Bennett has paid, and is responsible to him for, $260, for medical services for the negroes; they have lived in houses by themselves; at one place white women lived in, or an adjoining house.

Alfred F. James. Has been, to some extent, conversant with the hire of negroes in Galveston since 1st August, 1847. The usual mode is

by the month; in one or two instances he has known them hired by the year; has never known negro mechanics hired by the year. Has Henry employed for the last six weeks; he is a pretty good workman; he is subject to chill and fever, quitting his work occasionally for an hour or two. From his own knowledge, cannot speak of his habits from what he has seen of him; would be afraid to hire him by the year at $12 per month, and take him better for worse. Makes this statement from the fact that he has sometimes been absent two or three days, and said he was sick. Had Arthur also employed; does not know what he is to pay for either; he understood at the time he was to pay $30 for one and $35 for the other. Bennett has since told him he would charge $90 per month for the two; if he has to pay that sum, had he known it, would not have employed them. Arthur is a good workman, not so good as Henry; considers him sickly, subject to rheumatism; he employed him a few weeks since, he worked four or five days and left, and has not since returned; believes his present disease is inflammation of the eyes. They are both good workmen, and if healthy, would be worth one dollar to one fifty per day, free from any charge to employer. Since 1st August, 1847, master mechanics have generally been out of employment; no others would hire negro mechanics by the year; therefore, does not believe they could have been hired out by the year. Knows nothing of the health of Arthur or Henry previous to the time he employed them. It would be worth $100 per annum to feed and clothe a negro mechanic, perhaps more. Has been chief justice of Galveston county some years; there has been no hiring of negroes by the year, belonging to estates. To hire negroes by the year and collect it, is worth 5 per cent. of the amount, by the month 10 per cent.

E. P. Hunt, sworn. Will neither be gainer or loser in the result of this suit; has been sole book-keeper of his co-defendant, Bennett, since 1st Aug., 1847; there is due Bennett up to 20th April, 1850, $1,183 25. He refers to account marked B, and filed, as containing a true exposition of the state of accounts between Bennett and [the] heirs of Amis, since 1st August, 1850; the commission charged, interest, &c., are all included in the balance stated. Henry was hired by Colonel Morgan, for two months, at $30 per month, and *fined* him. He was hired to Governor Runnels at the same rate; was there two weeks, and became sick, and returned home. Paid Doct. Smith's bills without requiring lists of items. The item charged in account, and dated 30th September, 1848, is for the hire of Cameron, for 14 months succeeding 1st August, 1847, and its amount is $140; he was not hired out all the time, but acted as drayman part of the time. The amount credited is the gross proceeds of his hire; he found it to average $10 per month, and so credited it; he was sick part of the time. The negroes were never offered on hire at public outcry, by the month or year; when he could do so, he hired them out by the month; when he could not, he permitted them to hire themselves out by the day. The item of $80 credited for Henry's hire, between the 21st March and 19th July, 1849,

is the gross amount of receipts within the time stated; no part of which was received from Henry for his hire by the day. The $80 for receipts, credited for Arthur's hire, received in the same way; the $60 for Cameron was received from Brown and Hanchett in the same way. The item dated April 20th, 1850, for the hire of Cameron, from 19th July, 1849, for $115, was received from Brown and Hahn, and the steamer Jack Hays. He was hired at Lynchburg, Harris county, to Brown and Hahn. The item dated January 24th, 1848, for balance of $74 40, was paid to Maynard and Shaw, for articles furnished by them for Matilda and family, from 1st June, 1847, to 24th January, 1848. The slaves were all sick, and the articles were furnished by his direction, as they might be called for; none are charged that were furnished previous to 1st August, 1847. Matilda, Henrietta, the other children, Arthur and Henry, part of the time composed Matilda's family during the time spoken of; all were not sick all the time. The item dated 20th December, 1848, for $41, to Maynard and Shaw, was for articles furnished Matilda under like circumstances, commencing July 5th. The item of $180 for house rent, at $10 per month, for 18 months previous to 30th December, 1848, part was paid for Brewster's house for a year, the remainder for Bennett's house. Is conversant with hiring negroes in Galveston; he could not, since [the] death of Amis, have been hired out by the year. Believes, [from] the manner they have been managed, they have produced more than they would in any other manner; knows all the negroes well. Henry, at heart, is a good negro; is intemperate at times; kind treatment is best towards him. A great portion of the time since Bennett has had him, has been subject to rheumatism; when able to work, is a good negro. Cameron is a common boy; had yellow fever in 1847, and was sick a long time; his health has not been first rate since; does not consider him an able-bodied hand. Do not believe that any person who knew the negroes would have hired them by the year. The negroes have always been hired by the month, when it could be done; sometimes Bennett and himself have given them employment, and entered credits at the same rate they had been hired to others. Matilda, Henrietta, and all her family could not be hired by the year, month, or otherwise, so as to pay expenses. The charges for supplies, house rent, &c., were indispensable when they were sick and not hired out. All the negroes had yellow fever in 1847; it commenced abont 20th September, 1847.

From 1st Feb'y 1849, to 1st June, whilst building his house, he sometimes had 20 carpenters employed, with the exception of four he hired; the others at from 50 cents to one dollar per day, and they found themselves; the best workmen were at $1 25 during the time stated; mechanics had difficulty in getting employment. Has repeatedly tried to hire Arthur and Henry to master workmen by the month, and never could succeed. He repeatedly tried to hire Henry to Winney and Journey. Has, also, since the fist of Aug., 1847, tried three or four times to hire Arthur and Henry to Thomas M. League, which he declined. League had Arthur a short time. He made the bargain

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with League for the hire; thinks he hired him by the day; it might have been by the job. Since Aug., 1847, he has been Bennett's general agent for all purposes.

On a subsequent day, having been recalled, witness, Hunt, says: The reason why he did not hire Cameron to Pary and John, was, that Cameron complained that dust arising from pressing cotton was injurious to his lungs. He consulted Doct. Smith, who thought his lungs affected. Babcock was not acquainted with the price he paid his workmen; thinks Gifford a better carpenter than Babcock; neither of them had control. Corrects his evidence, by saying that Winney and Journay, on his application, did hire Henry for a month or two, but refused to do so at other times.

Oscar Farish, sworn: Has resided in Galveston since 1837; has had many negroes under his control to hire. Negroes cannot be hired by the year, without deductions for contingencies, at any reasonable price; has not known any hired by the year; the day or month is the custom; does not believe a negro carpenter could be hired by the year, and take him subject to contingencies. To hire a good negro carpenter month by month, and subject to no abatements for sickness, pay medical bills, feed and clothe him, would be worth $200 per annum.

Henry A. Cobb, sworn: Knows the boy Henry that worked for James; from reputation, he is a drunkard. Since 1st Aug., 1847, negro carpenters could not have been hired by the year in Galveston. To hire Henry (if his habits were good) month by month, the utmost value of his hire would be $20 per month, subject to abatements in price for contingencies. If subject to drink or rheumatism, from ten to fifteen dollars.

Gilbert Winney, sworn: Knows Henry; he is a good workman ; intemperate at times; under all the circumstances existing, in Galveston, since 1st Aug., 1847, he has been worth $20 per month; to hire him by the year, and take him at all risks, he has been worth $200 per annum. Hand has frequently applied to him to employ Henry; he did employ him sometimes, did not at other times; until the last three or four months, ever since 1st Aug., 1847, work has been dull in Galveston, and difficult to be had; as a consequence, many carpenters have left for want of employment.

Thomas M. League recalled by defts.: Says his opinion of the value of the hire of the negroes is based on his knowledge of their qualifications as good workmen, and on the presumption they are healthy.

In answer to question by complts. says: That since 1st January last the weather in Galveston has been bad in an unusual and extraordinary degree.

The following account was filed by defendants in the investigation before the master, and is referred to in the master's report as exhibit No. 1.

John D. Amis's estate in account current and interest account with John H. Bennett.

1847. Aug. 1	To amount of account to date		$1,327 52	
1848. Aug. 1	To 1 year's interest to date on same, a 8 per cent		106 20	$1,433 72
	By am't received for hire of negroes to date	$632 80		
	Less amount of disbursements, same time	320 14		
			312 66	
	Add interest on same, say average 6 m'ths, a 8 per cent		12 50	325 16
				1,108 56
	5 per cent. commissions on receipts	$632 80	31 64	
	5 per cent. commissions on disbursements	320 14	16 00	47 64
	Balance due J. H. Bennett, this date			1,156 20
1849. Aug. 1	To 1 year's interest to date, on $1,156 20 a 8 per cent.			92 50
				1,248 70
	By am't received for hire of negroes to date	$643 83		
	Less amount of disbursements	584 74		
			59 09	
	Add interest on same, average 6 months, a 8 per cent		2 36	61 44
				1,187 25
	5 per cent. commissions on receipts	$643 83	32 19	
	5 per cent. commissions on disbursements	584 74	29 23	61 42
	Balance due J. H. Bennett, this date			1,248 67
1850. April 20	To interest to date, 8⅔ mo'ths on $1,248 67 a 8 per ct.			77 69
				1,326 36
	By am't received for hire of negroes, to date	$480 25		
	Less amount of disbursements	229 10		
			251 15	
	Add interest on same, average 4½ months		7 25	258 40
				1,067 96
	5 per cent. commissions on receipts	$480 25	24 01	
	5 per cent. commissions on disbursements	229 10	11 45	35 46
				1,103 42

Filed 10th June, 185 .

JAMES LOVE, *Clerk*.

The following is the statement of accounts made up by James Love, master in chancery, and referred to in his report as No. 2, to wit:

	Due Bennett 1st August, 1847		$1,327 52
	Three months interest to 1st November, 1847, 8 per cent		26 55
	Extraordinary expenses during prevalence of yellow fever		100 00
	Due 1st November, 1847		1,454 07
	Interest on this sum, one year to 1st November, 1848		116 32
			1,570 39
1848.			
Nov. 1	By Arthur's hire	$300 00	
	By Henry's hire	250 00	
	By Cameron's hire	180 00	
	By Matilda and family	30 00	
		760 00	760 00
	Balance due 1st November, 1848		810 39
	Interest on $810 39 to 1st November, 1849, 1 year, at 8 per cent		64 83
			875 22
1849.			
Nov. 1	By hire of Arthur	$300 00	
	By hire of Henry	250 00	
	By hire of Cameron	180 00	
	By hire of Matilda and family	30 00	
		760 00	760 00
	Balance due Bennett 1st November, 1849		115 22
	Interest on same to 1st January, 1850, 7 months, a 8 per cent		9 21
	Amount due for doctor, and interest 1st June, 185		124 43
1850.			
Jan'y 1	By hire of Arthur, 7 months	$175 00	
	By hire of Henry, 7 months	145 83	
	By hire of Cameron, 7 months	105 00	
	By hire of Matilda and family	17 50	
		443 33	443 33
	Due complainants 1st June, 1850		318 90
	By medical attendance and medicines.		

JAMES LOVE, *Master.*

Filed June 10th, 1850.

JAMES LOVE, *Clerk.*

The following account was filed by John H. Bennett, one of the defendants in this cause, on the 4th day of May, 1850, and is referred

in the testimony of E. P. Hunt, of the defendants, in his examination before the master, as account marked B.

Disbursements made by John H. Bennett for negroes Henry, Matilda, and her children, and Arthur and Cameron.

1849.				
Aug.	20	To 20 lbs. bacon per Henry, a 9 cts., $1 80, and half cord wood, $2 25	.....	$4 05
Sept.	20	1 overcoat, $6; 2 pairs thick pants, $5 50; 1 hat, $1 50; 1 pair shoes, $1 25; tobacco, 40 cts.; 2 flannel shirts, $2; 2 hie shirts, $1 20; 3 pairs socks, 90 cts., per Cameron	$18 75	
		half cord wood, per Matilda	2 25	
	29	amount paid city taxes on negroes	6 25	
				27 25
Oct.	3	amount Lewis & Co.'s bill meal, &c., for Matilda's family	5 08	
	8	1 coat, $7 50; 2 pairs pants, $5 50; 1 vest, $1 75, for Henry	14 75	
	31	amount paid State and county tax on negroes	15 00	
		2 prs. pants, 10s. and 13s.; 1 pr. shoes, 12s., per Arthur	4 37	
		12 yards calico, 12s.; 6 yards check, a 15c.—90c.; 5 yards domestic, 5s.; 1 pair shoes, 10s.; for Indiana	4 28	
		half cord wood, per Matilda	2 25	
				45 73
Nov.	19	amount Sydner & Bones' bill, sundry materials for clothing for Henrietta and Indiana	11 40	
	27	1 coat, $7; 1 whitewash brush, $1; per Arthur	8 00	
		half cord wood, per Matilda	2 25	
	30	1 pr. shoes, $1; 1½ yd. domestic, 19c.; per Indiana	1 19	
		amount paid steamer Billow, for passage of Arthur to Colonel Morgan's	1 50	
		am't E. S. Wood's bill, 1 brick trowell, per Arthur	1 13	
				25 47
Dec.	22	amount paid R. Jones, for meal for Matilda and family	2 90	
		2 pairs pants, $4 50; 1 pair shoes, 12s.; per Henry	6 00	
	31	2 hie shirts, $1 20; 1 pr. brogans, $1 50; per Arthur	2 70	
	31	1 jack plane, per Arthur	1 25	
		1 pair shoes, per Henrietta, (omitted Sept. 12)	1 00	
		half cord wood, per Matilda	2 25	
				16 10
Jan.	20	1 cord wood for Matilda	4 50	
	31	1 pair boots, $3; tobacco, $1; per Cameron	4 00	
				8 50
Feb.	1	1 pair pants, $1 50; 1 pair shoes, $1 25; per Arthur	2 75	
	18	half cord wood, per Matilda	2 50	
		amount paid Justy Jones, for attendance on Matilda during her confinement	8 00	
				13 25
March	2	1 pair shoes, per Henrietta	1 25	
	20	half cord wood, per Matilda	2 50	
		Doctor Wm. R. Smith's medical bill, attendance on boy Leonidas, on Matilda and child, and on Cameron	60 00	
				63 75
		Amount carried forward, (1st page)	.....	$204 10

Disbursements—Continued.

1850.			
April 20	Amount brought forward.....	.....	$204 10
	To amount Doctor Godin's bill, for medical attendance on Arthur and Indiana.....	.....	25 00
	amount of account rendered up to March 21, 1849	830 63	
	amount of account rendered up to July 19, 1849..	74 25	
			904 88
	5 p. c. comm's on am't of disbursem'ts, $1,133 98	56 70	
	5 p c. commissions on am't of receipts, $1,756 88	87 84	
			144 54
			$1,278 52
	Account of receipts.		
1850.			
April 20	By amount received for hire of boys Henry & Arthur, from 19th July to date.....	292 25	
	amount received for hire of Cameron, same time..	115 00	
	amount received for hire of Indiana, same time...	48 00	
	amount received for hire of Henrietta, same time.	24 00	
	Henrietta has, for a great portion of the time, been placed in charge of the family, her mother having been ill, and also been confined during this time, rendering it necessary for her to be at home to take care of the family.		
	By amount of receipts, as per account rendered up to March 21, 1849.....	1,008 63	
	amount of receipts, as per account rendered up to 19th July, 1849.....	268 00	
			1,756 38
	Balance to credit of negroes.....	.....	$478 36

The estate of John D. Amis, deceased, in account current with John H. Bennett.

1850.		
April 20	To amount of my account, allowed by the administrator, and approved by the chief justice, due 1st August, 1847....	$1,327 52
	interest on same to this date, a 8 per cent.....	289 09
		$1,616 61
	Cr.	
	By amount of balance of receipts and disbursements for negroes	478 36
	Balance due J. H. Bennett.....	$1,138 25
	JNO. H. BENNETT.	
	Subscribed and sworn to, before me, *me*, the 29th April, 1850.	
	JAMES LOVE.	
	To rent of dwelling-house for Matilda and family, from 20th July, 1849, to 20th April, 1850, 9 months, a $5 per month	45 00
	Balance due J. H. Bennett.....	$1,183 25
	JNO. H. BENNETT,	
	E. P. HUNT.	
	Subscribed and sworn to, before me, 7th May, 1850.	
	JAMES LOVE, *Clerk.*	

Filed 4th May, 1850.

JAMES LOVE, *Clerk.*

Afterwards, to wit, on the fourteenth day of June, A. D. 1850, John H. Bennett, one of the defendants in this cause, by his solicitors, filed his exceptions to the master's report, in words and figures following, to wit:

United States district court, for the district of Texas.

SAMUEL F. BUTTERWORTH and Mary E., his wife,
vs.
JOHN H. BENNETT and E. P. Hunt, admr. of John D. Amis, dec'd.

Exceptions to master's report.

Exceptions taken by John H. Bennett, one of the above named defendants, to the report made in this cause by James Love, the master, to whom the cause was referred.

First. For that the said master hath, in and by his report, stated and certified that this defendant has filed and proven an account, which — therewith submitted, marked No. 1, of the receipts and expenditures under the mode of management in said report stated; which said master reports he has not thought proper to investigate, as he assumed a different mode of management to have been necessary to exempt this defendant by the terms of the decree from "wilful default;" whereas the said master ought to have investigated said account, marked No. 1, the same having been, as he reports, "filed and proven." And because it appears that the different mode of management, assumed by the said master to have been necessary to exempt this defendant by the interlocutory decree from "wilful default," is not proven to be the usual and customary mode of management of slaves, as will appear by reference to the evidence of complainants and defendants, marked No. 3 and No. 4, which accompany said report; but, on the contrary, the said account is, by said evidence, fully sustained, and the mode of management of said slaves therein set forth is proven by said evidence to have been the usual and customary mode pursued in good faith, and to the advantage of all the parties concerned.

Second. For that the said master hath also therein stated that he has filed an account, marked No. 2, wherein it appears the said master hath drafted said account, making the same to commence on the first day of *day of* August, eighteen hundred and forty-seven, and commencing charges for the hire of the slaves in controversy from and after the first day of November of the same year; whereas it appears upon the answer of this defendant, upon which (together with the bill) this cause was submitted, that the master was limited and restricted from inquiry concerning matters touching the accounts of the hire of said slaves anterior to the twentieth of March, eighteen hundred and forty-nine.

Third. For that the said master hath also, in his said statement of accounts between the parties, upon the basis which he assumed, marked No. 2, and filed with said report, stated a balance due complainants

on the first day of June, 1850, of three hundred and eighteen dollars and ninety cents, 318\frac{90}{100}$, which is contrary to the evidence of complainants and defendants now filed with his said report, marked No. 3 and No. 4, and hath not, in his said report, allowed and credited this complainant by the expenses proven to have been incurred in the management of said slaves by the evidence aforesaid.

For all which causes this defendant excepts to the said report, and respectfully submits his exceptions to be determined by the court.

McQUEEN & WILLIE,
Solicitors for def't.

And on the seventeenth day of June, A. D. 1850, John H. Bennett, one of the defendants in this cause, by his solicitors, filed the following motion, to wit:

Motion for re-reference.

THE UNITED STATES OF AMERICA,
District of Texas, to wit:

District court, May term, 1850.

SAMUEL F. BUTTERWORTH and Wife, complainants,
vs.
JOHN H. BENNETT and E. P. Hunt, admrs., defendants.
} In chancery.

The said defendant, John H. Bennett, now moves the court for second reference to the master of the several matters contained in the interlocutory decree rendered in this cause on 20th day of April, 1850; because, since the filing of the master's report, this defendant has discovered new and additional testimony touching the matters sought to be inquired into by said decree, as will appear by his affidavit herewith filed, marked A; to which he begs leave to refer in support of motion.

McQUEEN & WILLIE, *for Defendant.*

At the same time the said John H. Bennett, one of the defendants in the above cause, filed the following affidavit in support of the foregoing motion, marked A, and referred in foregoing motion:

SAMUEL F. BUTTERWORTH and Mary E., his wife, complainants,
vs.
JOHN H. BENNETT and E. P. Hunt, adm'rs, &c.
} In chancery.

Affidavit of Bennett.

John H. Bennett, one of the defendants in the aforesaid cause now pending in the United States district court for the district of Texas, says, that, since the 10th day June, 1850, when the report of the master was

filed in this cause, he has discovered new additional evidence, and he conceives it to be material to his interests and rights that he shall have the benefit of it; he says that said evidence amounts to about this, viz., that, in the lifetime of John D. Amis, some time in the month of June, 1847, the said Amis being largely indebted to this defendant, it was agreed and contracted, between said Amis and this defendant, this defendant should give said Amis further time to pay said debt; and that he, this defendant, should also advance to him, Amis, about the further sum of two hundred dollars, and should remain in the possession of the slaves in controversy in this suit, and should continue to hire them out as he had theretofore done, and to receive the hire, and apply the same towards the extinguishment of his, the Amis' existing indebtedness, and of such advances as this defendant might thereafter make to said Amis, or for the support and protection of said negroes; and that said defendant was to average and receive five per cent. commissions on such advances, and also five per cent. on the hire of said slaves.

He expects further to prove that he has fully complied with this agreement and contract. He further says, that this evidence is true in point of fact, and that his failure to discover it and to produce it before the master before the filing of his said report, did not occur in consequence of any want of diligence on his part. And he further says, that when said contract [was] made, he was wholly ignorant that said complainants, or either of them, had any claim whatever to said slaves, and remained ignorant of said claim until about the time of the commencement of this suit. And this defendant further says, that his exhibits and accounts filed with his answer, and the accounts which were before the master, were made in strict accordance with the said agreement and contract with the said John D. Amis; and that, since said report was made, he has discovered that he can prove this.

JNO. H. BENNETT.

Subscribed and sworn to before me, in open court.

JAMES LOVE, *Cl'k.*

And afterwards, to wit, on the eighteenth day of June, 1850, the motion of John H. Bennett, one of the defendants in this cause, to refer the matters of account between John D. Amis, deceased, and said Bennett, having come up to be heard and determined, the following order was made by the court, to wit:

Report confirmed.

On this day came on to be heard the motion of defendants to set aside the master's report filed herein, for causes set forth in said motion; argument of counsel for defendants as well as complainants having been heard, and the court being now sufficiently advised, it is ordered that the motion be overruled; and it is further ordered that the report of the master be confirmed.

And afterwards, on the 20th day of June, A. D. 1850, the following order was made by the court, to wit:

On this day came on to be heard the motion filed by defendants, again to refer to the master in chancery his report, heretofore filed in this cause, for further investigation and report.

The argument of counsel having been heard, and the court being sufficiently advised, it is ordered that the motion be overruled.

And on the same day, to wit, on the 20th day of June, 1850, the complainants, by their counsel, filed the following motion, to wit:

THE UNITED STATES OF AMERICA,
District of Texas, to wit:

District court, May term, 1850.

SAMUEL F. BUTTERWORTH and Wife, complainants,
vs.
JOHN H. BENNETT and E. P. HUNT, defendants.
} In chancery.

The complainants now move the court to appoint a receiver of the negro slaves, in the pleadings in this cause mentioned and described, and beg*s* leave, upon the hearing of this motion, to refer to the report of the master made herein in pursuance of the interlocutory decree rendered in this cause.

ROBERT HUGHS,
SAM. YERGER,
For complainants.

June 28th, 1850.

And afterwards, on the 25th day of June, came on to be heard the motion of complainants to appoint a receiver; whereupon the court made the following order, to wit:

And now came on to be heard the motion of complainants to appoint a receiver to take charge of the property in controversy between the parties; argument of counsel having been heard, and the court being now sufficiently advised, because it is the opinion of the court that a receiver should be appointed:

It is ordered that it be referred to James Love, one of the masters of this court, to approve and appoint such receiver, and take a bond from such receiver, with approved security, and make report to the court forthwith of all his proceedings in the premises.

And afterwards, on the 22d day of April, A. D. 1850, the complainants, by their solicitors, filed a notice, which notice is in words and figures following, to wit:

THE UNITED STATES OF AMERICA,
District of Texas, to wit:

District court, April term, 1850.

In chancery between—

SAMUEL F. BUTTERWORTH and Wife complainants, and JOHN H. BENNETT and E. P. Hunt, defendants. } 27. Original bill.

JAMES LOVE, esq.,
One of the masters of the district court aforesaid.

SIR: You are hereby notified that the matter of reference, by the interlocutory decree, in the foregoing suit, is now brought before you by the undersigned, counsel for complainants, and you are requested to assign a time and place for proceeding with the inquiry contained in said reference, and to give the notice to each party, required by the rules of this court.

ROBERT HUGHS,
For Complainants.

Filed April 22, 1850.

JAMES LOVE, *Clerk.*

THE UNITED STATES OF AMERICA,
District of Texas, to wit:

District court, May term, 1850.

SAMUEL F. BUTTERWORTH and Wife, vs. JOHN H. BENNETT and E. P. Hunt. } In chancery.

It having been referred to James Love, one of the masters of the court, to appoint a proper receiver in this cause, and take and approve bond with proper security, &c.; the complainants, by counsel, propose to said master Henry B. Martin, as a proper person to be appointed said receiver, who will give bond, as may be required; and who offers Ebenezer Allen and as securities in such bond.

All which is respectfully submitted,

ROB. HUGHS, *for Complainants.*

June 25th, 1850.

And upon which the following return of service is endorsed, to wit:

Received June 25th, 1850, and on the same day I served on John H. Bennett and Robert Hughs, esqs., a true copy of this paper, with a notification of the master to appear at the United States court-house on the morning of the 26th June, at 10 o'clock, a. m.

J. BATES,
United States marshal.
By DANL. MARSTON, Jr.,
Deputy marshal.

Filed June 25th, 1850,

JAMES LOVE, *Clerk.*

SAMUEL F. BUTTERWORTH and Wife
vs.
JOHN H. BENNETT and E. P. Hunt. } In chancery.

In the matter of reference in the above entitled cause, you will please take notice that I have appointed Saturday, the 27th day of April, at 9 o'clock, a. m., at my office, in the United States court-house, as the time and place when and where I shall proceed with the inquiry, as required by the order of the court, made on the 20th day of April, A. D. 1850.

JAMES LOVE,
Master in chancery.

Galveston, April 24th, 1850.

I acknowledge service of the above.

E. P. HUNT.

And upon which there is the following endorsement of service, o wit:

Received April 24th, 1850, and executed the same day, by serving this notice on E. P. Hunt, to appear before the master in chancery; service of notice acknowledged.

J. BATES,
U. S. marshal,
By J. B. BATES,
Deputy marshal.

Filed April 27th, 1850.

JAMES LOVE, *Clerk.*

SAMUEL F. BUTTERWORTH & WIFE
vs.
JOHN H. BENNETT & E. P. HUNT. } In chancery.

In the matter of reference in the above entitled cause you will please take notice that I have appointed Saturday, the 27th day of April, at 9 o'clock, a. m., at my office in the United States' court-house, as the time and place when and where I shall proceed with the inquiry as required by the order of the court, made on the 20th day of April, A. D. 1850.

JAMES LOVE,
Master in chancery.

Galveston, April 24th, 1850.

I acknowledge service of the above.

JNO. H. BENNETT.

Upon which the following endorsement of service is made, to wit: Received April 24th, 1850, and executed the same day by serving

this notice on John H. Bennett, to appear before the master in chancery. Service of notice acknowledged.

J. BATES, *U. S. Marshal.*
By J. B. BATES, *Deputy Marshal,*

Filed April 27th, 1850.

JAMES LOVE, *Clerk.*

And afterwards, on the twenty-sixth day of June, 1850, James Love, esq., the master to whom it was referred to appoint and approve a receiver of the property in controversy between the parties to this cause, submitted the following report, to wit:

SAMUEL F. BUTTERWORTH & WIFE
vs.
JOHN H. BENNETT et al.

In pursuance of an order of court directing the appointment of a receiver in this cause, to take into his possession the negro slaves in controversy, the parties appeared before me on this day in obedience to the notice given; they recommended Richard B. Daswell as a suitable person. I approved the recommendation, and report that I have appointed him. He, thereupon, with Robert Mills and M. B. Menard, entered into bond in the sum of ten thousand dollars, payable to the President of the United States, for the legal and faithful performance of his duties, which said bond is approved, and is herewith reported, marked A.

JAMES LOVE,
Master in chancery.

June 26th, 1850.

The following bond is referred to in the master's report, as marked A, and is in words and figures following, to wit:

THE UNITED STATES OF AMERICA,
District of Texas.

Know all men by these presents, that we, Richard B. Daswell, Robert Mills, and M. B. Menard, of the city and county of Galveston, and within the district of Texas, are held and firmly bound, unto the President of the United States of America, in the sum of ten thousand dollars, lawful money of the United States, to be paid to the said President, his successors in office, or whomsoever he or they shall direct; for the which payment we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals and dated this the twenty-sixth day of June, A. D. 1850.

Whereas, by an order of the honorable the judge of the district court of the United States aforesaid for said district, and the proceedings thereon on the twenty-sixth day of June, in the year aforesaid, the said Richard B. Daswell was duly appointed receiver in a certain cause instituted in the said court by Samuel F. Butterworth and Wife, com-

plainants; John H. Bennett and E. P. Hunt, defendants, of and concerning certain property of the parties to the said suit or cause. Now the condition of this obligation is such, that if the said Daswell shall well and faithfully perform the trust and office of receiver of the property in question in said cause, and shall conform to such directions as the said court shall from time to time give, touching the disposal and management of the said property, then this obligation to be void, otherwise to remain in full force and virtue.

RICHARD B. DASWELL, [SEAL.]
R. MILLS, [SEAL.]
M. B. MENARD. [SEAL.]

Signed, sealed, and delivered, in the presence of—
GEORGE B. INNIES.

Form of this bond approved.

JAMES LOVE,
Master in chancery.

Filed June 26th, 1850. JAMES LOVE, *Clerk.*

And upon the submission of which report the court made the following order, to wit:

Order of court directing receiver.

James Love, one of the masters of this court, to whom was referred to approve and appoint a receiver in this cause, and to take bond and approved security from such receiver, having reported that he appointed Richard B. Daswell receiver; and that the said Daswell, together with Robert Mills and M. B. Menard, had executed bond in the penalty of ten thousand dollars for the faithful and legal performance of his, said Daswell's, duties as receiver aforesaid; and the said report having been filed, and no exception taken thereto, upon motion of complainants, by their solicitors, it is ordered that said report in all things be confirmed.

It is further ordered that the defendants, immediately after the presentation of a copy of this order, deliver to Richard B. Daswell, the receiver aforesaid, all the negroes in controversy in this cause, and the increase of the females.

James Love, esq., one of the masters in chancery of the court, having reported in open court that he was informed by the report of the receiver in this cause that all the negroes in controversy between the parties had been delivered to him, said receiver, the court thereupon made the following order, to wit:

James Love, one of the masters of this court, having reported that Richard B. Daswell, the receiver herein, had reported to him that all the negroes in contest between the parties had been delivered to him by John H. Bennett, one of the defendants in this cause:

It is ordered that said receiver, having first given twenty days notice by advertisement, in one or more of the newspapers published in the city of Galveston, proceed to hire out the said slaves, at the time and place to be stated in the advertisement, to those who shall give the

highest and best price, until the first day of January, 1850, taking from the hirer of any or all of said slaves, bond with approved security for the hire of such slave or slaves; and also bond with approved security from such person as may hire any or all of such slaves, that he will return and deliver them to the said receiver in the city of Galveston, on the first day of January aforesaid, and hold them subject to the rights of the parties in this cause in such manner as they may be finally adjudicated; the bond so taken shall also contain a condition that the hirer shall treat said slave or slaves whilst in his possession in the manner that is usual with humane and good masters; that they shall be fed and clothed in the manner usual amongst planters of the most approved standing, and that they will furnish medical attendance when necessary for such slave or slaves; and said bond also to be conditioned that the hirer takes such slave or slaves subject to no deduction for lost time or other contingency.

It is further ordered, that on the first day of January next, and from year to year thereafter, so long as this suit shall be pending between the parties, the said receiver, shall on that day, having previously given notice as aforesaid required, proceed to hire out said slaves in the manner prescribed in the foregoing part of this order, and take bonds in the manner aforesaid prescribed.

It is further ordered, that the receiver, in his sound discretion, and in the manner he may think best calculated to promote the interest of the party and humanity, shall not in hiring Matilda have her separated from any of her children that requires the care and attention of a mother, and shall have liberty so to manage the hiring of all the unmarried female portion of her family in the manner most conducive to humanity and the interest of the party.

It is further ordered, that the said receiver, on the second day of January next, and each and every year thereafter, that the said slaves shall remain in his possession, shall make his report to the master of all his proceedings in the premises, together with a statement of his accounts, and also the condition of said slaves.

And on the 27th day of June, 1850, Richard B. Daswell, the receiver appointed in this cause, reported in words and figures following, to wit:

SAMUEL F. BUTTERWORTH and Wife
vs.
J. H. BENNETT et al.

Having on yesterday been appointed receiver in this cause, I have to report that the defendant, John H. Bennett, has delivered to me Arthur, Henry, and Cameron, and also Matilda and her children, to wit, Henrietta, Indiana, Leonidas, Theodocia, Laura, and an infant child.

June 27th, 1850.

RICHARD B. DASWELL, *Receiver.*

Filed 27th June, 1850.

JAMES LOVE, *Clerk.*

Final decree.

And afterwards, to wit, on the twenty-eighth day of June, A. D. eighteen hundred and fifty, the court rendered the following decree, to wit:

And now, on this 28th day of June, A. D. 1850, this cause came on to be heard and finally determined, upon the master's report and the matters reserved, in presence of counsel for both parties; and said report having been confirmed, and it appearing from the said report that the mortgage money, with all the interest thereon, has been paid off and discharged by the hire of the negroes in controversy, and that said defendant, Bennett, on account of said hire, on the first day of June, was and is indebted to the complainants in the sum of three hundred and eighteen dollars ninety cents: The court, thereupon, thought fit to order, adjudge, and decree, and it is accordingly ordered, adjudged, and decreed, that the receiver in this cause do deliver to the complainants the negro slaves in the proceedings in this cause mentioned, with the increase of the females; and that said defendant, Bennett, pay to said complainants the said sum of three hundred and eighteen dollars ninety cents, with interest thereon from the said 1st day of June, 1850, until paid, at eight per cent. per annum.

And it is further ordered, adjudged, and decreed, that the complainants pay the costs of *of* this cause to be taxed, &c. And it is further ordered, adjudged, and decreed, that complainants' bill be dismissed as to the defendant Hunt.

JOHN C. WATROUS, *Judge.*

Motion for appeal.

And afterwards, upon the said 28th day of June, 1850, upon receiving of the decree in this cause on this day against the defendant Bennett, the defendants, John H. Bennett and E. P. Hunt, administrator of John D. Amis, deceased, by their solicitors, Hugh McQueen and John W. Harris, in open court, prayed an appeal to the Supreme Court of the United States, to be held in Washington city on the first Monday in December next, in the words following, to wit:

SAMUEL F. BUTTERWORTH and Wife
vs.
JOHN H. BENNETT and E. P. Hunt,
adm'r of John D. Amis, deceased.

And now, on this 28th day of June, A. D. 1850, John H. Bennett and E. P. Hunt, administrator of John D. Amis, deceased, by Hugh McQueen and John W. Harris, their solicitors, in open court, pray an appeal to the Supreme Court of the United States from the decree of the district court of the United States for the district of Texas, on this day rendered in this cause.

HUGH McQUEEN,
JOHN W. HARRIS,
Solicitors for def's.

And to them it is granted, upon their entering into bond in the penal sum of one thousand dollars, with good and sufficient securities, conditioned in the manner required by law, to be approved by the judge, and filed within ten days.

And afterwards, to wit, on the same day, the said defendants, by their solicitors, having tendered their bond as agreed, the court made the following order, to wit:

Appeal granted.

And now, on this day, came the defendants, by their solicitors, McQueen & Harris, and tendered a bond for appeal as required by the order of this court, to the Supreme Court of the United States, from the decree this day rendered in this cause.

The court having inspected the bond, and being satisfied it is in conformity to law, and the order by this court, and that the securities are good and sufficient, it is ordered that it be approved and filed.

In the United States district court, for the district of Texas. In chancery. Between

SAMUEL F. BUTTERWORTH and Wife and JOHN H. BENNETT & E. P. Hunt. } In chancery.

Appeal bond.

Know all men by these presents, that we, John H. Bennett, E. P. Hunt, administrator of John D. Amis, deceased, E. S. Ufford, and John S. Sydnor, are held and firmly bound unto Samuel F. Butterworth and Mary Emily, his wife, of the city and State of New York, in the sum of one thousand dollars, lawful money of the United States of America; for the payment of which, well and truly to be made to the said Samuel F. Butterworth and wife, their certain attorney, executors, administrators or assigns, we bind ourselves and each of us, jointly and severally, and our heirs, executors, and administrators, and the heirs, executors, and administrators of each of us, firmly by these presents.

Sealed with our seals, and dated this twenty-ninth day of June, in the year of our Lord one thousand eight hundred and fifty.

The condition of the above obligation is such, that whereas the said district court has made and entered in the above entitled suit a final decree, against which final decree the above named John H. Bennett and E. P. Hunt have prayed and obtained an appeal to the Supreme Court of the United States: Now, the consideration of the above obligation is such, that if the said John H. Bennett and E. P. Hunt, aforesaid, shall well and truly prosecute with effect their said appeal, and pay unto the said Butterworth and wife all such damages, costs, and charges as shall be awarded to them by the Supreme Court in case they, the said John H. Bennett and E. P. Hunt aforesaid, fail to make good their said appeal, then the above obligation shall be void,

and of none effect; otherwise to be and remain in full force and virtue.

JOHN H. BENNETT, [SEAL.]
E. P. HUNT, [SEAL.]
Adm'r of the estate of John Amis, dec'd.
E. L. UFFORD, [SEAL.]
J. S. SYDNOR. [SEAL.]

Signed, sealed, and delivered in presence of—

Approved and filed 28th June, 1850.

JAMES LOVE, *Clerk.*

Wm. H. McCutchan this day appeared before me, and being sworn saith, that John D. Amis signed and executed the foregoing instrument in his presence, and that he subscribed his name as a witness thereto.

Given under my hand, June 16th, 1845.

Test: OSCAR FARISH, *C. C., G. C.*

Filed in Galveston county clerk's office, June 16, 1845, at 10 a. m. Recorded same day, 1 p. m.

OSCAR FARISH, *C. C., G. C.*

Statement of the accounts between John H. Bennett and the estate of John D. Amis, up to the first of August, 1847, referred to in the answer of said Bennett, and filed therewith on the 24th day of March, 1849, to wit:

The estate of John D. Amis, deceased, in acct. current and interest acct. with John H. Bennett, Dr.

Months and days.		Principal.	Months.	Days.	Interest.	Total amts.
1845.		Dolls. Cts.			Dols. Cts.	Dolls. Cts.
June 14	To cash paid him on acct. of purchase of negroes	100 00	25	16	17 01	117 01
July 23	am't paid your order in favor J. Hasbrook, $28 27; draft in favor Capt. Falvil, $150.....$178 27 am't paid T. Lewis by yourself 10 00	188 27	24	07	30 43	218 70
August 30	am't paid your draft in favor Luke Falvil	50 00	23	00	7 67	57 67
Sept. 15	am't paid J. A. Little, pr. your request	15 00	22	15	2 25	17 25
23	am't paid your draft in favor of Shaw & Co	45 00	22	07	6 68	51 68
Oct. 18	am't paid your draft in favor of J. Hasbrook	43 00	21	12	6 16	49 16
Nov. 29	am't paid him by H. H. Brower	35 00	20	01	4 67	39 67
Dec. 24	am't paid your draft in favor of J. Hasbrook	40 00	19	06	5 12	45 12
1846.						
Jan. 15	am't paid H. N. & M. M. Potter's					

Months and days.		Principal.	Months.	Days.	Interest.	Total amts.
1846.		Dolls. Cts.			Dols. cts.	Dolls. Cts.
Jan. 15	To bill for prosecuting Rodgers and others for negro stealing, advice, &c	100 00	18	15	12 33	112 33
24	am't paid steamer New York, fr't and primage on 1 horse from N. Orleans	15 75	18	06	1 91	17 66
31	cash handed him	25 00	18	00	3 00	28 00
Febr'y 2	am't paid Mrs. Bumgarten's bill for 1 mattrass	12 00	17	28	1 44	13 44
13	am't paid ½ cord of wood and drayage ..... $3 25 am't paid T. B. Lewis $3 25	6 50	17	17	0 77	7 27
16	cash handed him, $10; (19th) cash handed him, $6	16 00	17	13	1 88	17 88
24	cash paid 1 bot. Texas Tonic, $5; ½ cord wood, $3 50; cash handed him, $13 00	21 90	17	06	2 55	24 05
March 3	cash handed him $100; paid for 1 bot. Texas tonic, $5	105 00	16	27	11 90	116 90
April 15	cash paid J. Hasbrook's bill, by your request	1 38	15	15	14	1 52
May 5	cash handed him	50 00	14	25	4 95	54 95
23	cash paid ½ cord wood and dray., $2 50; cash handed him .. $50 00 cash paid 2½ M lath *a* 3½, $9 08; 2 boxes soap, $4 80; 3 lbs. nails, 30 cts 14 80	66 68	14	07	6 32	73 00
June 1	cash handed him for T. B. Lewis, $16; Calkin & Co's bill, $4 40 ..... $20 40 cash paid for 400 brick and drayage, $4 50; cash paid 528 ft. lumber *a* 2c., $10 56, 15 06 cash paid Luke Falvil bal. charter party schr. Surprise 70 00	105 46	14	00	9 84	115 30
5	cash J. A. Santers' bill	10 50	13	25	0 96	11 46
10	cash handed him, $100, (12th) paid for 1 keg lard, $3 91	103 91	13	20	9 46	113 37
27	cash J. A. Santers' bill	4 00	13	03	0 34	4 34
August 1	cash paid J. G. Hasbrook's bill	2 06	12	00	0 16	2 22
Nov. 16	cash paid protest on Wm. D. Amis, def't, on Dick & Hise, N. Orleans	3 50	8	14	0 19	3 69
1847.						
Feb'y 15	cash paid steamer Galveston for fr't and your passage from N. Orleans	47 62	5	15	1 73	49 35
17	cash paid 45½ lbs. butter, *a* 2s., $11 37; 1 bag Java coffe, 103 lbs., *a* 10s ..... $22 18 1 bbl. flour, $7 50; 1 keg lard, 62 lbs., *a* 9½, $5 89; 2 lbs. Tea, $1 60 ..... 14 99					

Statement—Continued.

Months and days.		Principal.	Months.	Days.	Interest.	Total amts.
1847.		Dolls. Cts.			Dols. Cts	Dolls. Cts.
	To cash paid 1 box buckwheat, $1 50; 1 box sp'm candles, 33¾ lbs., *a* 30, $10 13.... 11 63					
	cash pd. 1 bbl bro sugar, 254 lbs., *a* 7c., $17 78; 1 bbl. sides, 282 lbs., *a* 4c., $12 69 30 47					
	cash paid 1 bot. Texas tonic, $5; drayage, 50 cts..... 5 50	84 77	5	13	3 11	87 88
Feb'y 24	cash paid 24 lbs. nails, $1 96; 5 casks lime, $11 25.....$13 21					
	cash paid 151 ft. scantling, *a* 20c..... 3 04	16 25	5	06	0 56	16 81
March 2	cash paid sundry bills, per his request.....$51 42					
	cash paid 1 cask bacon sides 676 lbs., *a* 10c, $67 60; 10 lbs. nails, 80; drayage, 25c. 68 65	120 07	4	28	3 98	124 05
March 15	932 ft. cyprus lumber, *a* $30, $27 96; 102 lbs. bacon hams, *a* $8 16....	36 12	4	15	1 09	37 21
27	am't paid B. S. Parson's bill, 5 M lath, *a* $5.....	25 00	4	03	0 68	25 68
April 12	am't paid for cistern iron.....	23 81	3	18	0 58	24 39
" 19	am't paid S. Southwick's bill, 44 lbs. butter, *a* 2 per cent.....	11 00	3	11	0 26	11 26
May 5	am't paid 4 cords wood, $14; wharfage on sundry, per Florida, 13 p. ct.; 22 ft. boards, 44c.....	16 06	2	25	0 31	16 37
22	am't paid bill plaster, $5 50; J. Offult dft on you, $15 25.....	18 75	2	08	0 25	19 00
30, 31	am't paid molasses and potatoes, $14 45; Maynard & Shaw's bill, $37.....	51 45	2	00	0 69	52 14
June 1	amount paid E. Lewis's bill, per your request.....	60 00	2	00	0 80	60 80
10	amount paid invoice 10 bags corn from N. O., $18 34; freight and wharfage 4 28.....$22 62					
	amount paid 1 bot. Texas tonic $5; 3 bus. potatoes 3; tobacco, 8d..... 8 80					
	amount paid H. N. & M. M. Potters, for bal'e of lawyers fees in the case of Rodgers vs. Bennett and Amis..... 100 00	131 42	1	20	1 32	132 74
17	amount paid John W. Harris, bill attorney's fees.....	100 00	1	13	0 98	100 98
25	cash borrowed of J. Orterman for him, and handed him...$133 00					
	amount paid J. Orterman, 4 months interest on same 15 96	148 96	"	"	"	148 96

3579

Statement—Continued.

Months and days.		Principal.	Months	Days.	Interest.	Total am't.
	To amount paid 9 lb. loaf sugar, *a* 15c., $1 35; Tremont-house bill, 2 50..... 3 85 amount paid Emerson & Suffkins' bill, 2 casks lime *a* 2 25..... 4 50	Dolls. Cts. 8 35	1	05	Dols. Cts 0 07	Dolls. Cts. 8 42
July 19	amount paid for 1 bbl. flour.....	7 75		10	0 02	7 77
	5 per cent. commission for advancing $2,124 71 cents.....	106 24	"	"	0 02	106 24
		$2,230 95			$169 39	$2,400 34
1847.	Cr.					
Aug. 1	By balance of receipts and disbursements for negroes.....	.....	...	...	.....	1,072 82
	Balance due J. H. Bennett..... E. & O. E. Galveston, August 1, 1847.	.....	...	...	.....	$1,327 52

Approved April 10, 1848.

E. P. HUNT, *Adm'r.*

Examined and allowed, 19th March, 1849.

A. F. JAMES,
Chief justice.

STATE OF TEXAS,
County of Galveston.

Be it known, that on the sixth (6th) day of November, eighteen hundred and forty-seven, (1847,) before me, E. P. Hunt, a notary public, duly commissioned and sworn for the county of Galveston, State of Texas aforesaid, personally came John H. Bennett, to me personally known, and on his oath declares that the foregoing account current and interest account, as also the statement of receipts and disbursements for and on account of sundry negroes, accompanying this document, marked A, contain a true statement of his account against said estate of John D. Amis, deceased; and that the said sum of thirteen hundred and twenty-seven $\frac{52}{100}$ dollars was due him, the said John H. Bennett, and that the said sum is now due and unpaid, and not satisfied.

In testimony whereof I grant these presents under my signature and seal of office, the day and year last above written.

[L. S.]

E. P. HUNT,
Notary Public.

THE STATE OF TEXAS.

Before me, Elisha A. Rhodes, a notary public, in and for the county of Galveston, State aforesaid, appeared John H. Bennett, to me known,

who, being duly sworn, declares, that the annexed account against the estate of John D. Amis, for the sum of one thousand three hundred and twenty-seven $\frac{52}{100}$ dollars, is just and true, and that all legal offsets, payments, and credits known to this affiant have been allowed.

JOHN H. BENNETT.

Sworn to and subscribed before me, this 19th March, 1849.

E. A. RHODES, [s. s.]
Notary public.

Filed March 24th, 1849.

JAMES LOVE, *Clerk.*

And on the same day the following exhibit was filed, with the answer of John H. Bennett, to wit, (marked "Y.")

John D. Amis' estate in account current with John H. Bennett, as also the account of receipts and disbursements for sundry negroes.

1847.				
August 1	To amount balance of my account against J. D. Amis, up to the time of his death, after allowing all payments and credits due him.....		.....	$1,327 52
1849.				
Jan. 12	amount of disbursements on account of negroes Henry, Matilda and her children, Arthur, and Cameron, as per account rendered the clerk of the U. S. district court.....		$770 91	
15	5 bush. sweet potatoes for Matilda, a 40c.	$2 00		
Feb. 10	half cord wood, per Matilda.....	2 00		
15	amount paid steamer Billow, passage for Henry, who is hired at Col. Morgan's place at New Washington.....	2 50		
	amount paid E. S. Wood's bill for tools for Henry.....	4 55		
19	amount E. Wrentmor's bill, medicine for Henry and Matilda.....	0 75		
24	24 lbs. bacon, per Arthur, a 7½.....	1 80		
26	1 cord wood, per Matilda.....	4 50		
March 5	material for dresses, Henrietta & Indiana	3 38		
			21 48	
	amount paid August 21st, 1848, to L. S. Perkins, for medicines furnished negroes, from July 25th, 1846, to December 20th, 1847.....	$17 29		
	amount paid Nov. 1st, 1847, to N. N. John, for provisions furnished negroes.....	5 95		
			23 24	
	The last two items were omitted in the former account rendered.			
21	three months hire of house for Matilda and family, at $5.....		15 00	
	amount of disbursements for Lindsey, Billy, Betsey, and Ellick, as per account rendered the clerk of the U. S. district court up to the 12th January, 1849.....		221 56	
Jan. 31	1 pair pants and 1 shirt for Lindsey.....	$3 13		
Feb. 14	1 pair shoes, $1 38; 4 yds. domestic, 50c.; per Lindsey.....	1 88		
			5 01	
				1,057 20
				$2,384 72

Account—Continued.

	Cr.		
1849.			
Jan. 12	By amount of receipts for hire and services of the negroes Henry, Matilda and her children, Arthur, and Cameron, as per account rendered the clerk of the U. S. district court.....	$778 38	
March 30	amount of hire of Arthur to date..... $113 25		
	" " Henry " 60 00		
	" " Cameron " 45 00		
	" " Henrietta and Indiana. 12 00		
		230 25	
1849.			
Jan. 1	amount of receipts for hire and services of the negroes Lindsey, Billy, Betsey, and Ellick, as per account rendered the clerk of the U. States district court, the same being all the receipts since the death of John D. Amis to date.....	156 10	
March 20	amount of hire of Lindsey to date..... $30 00		
	" " Billy " 16 00		
	" " Betsey " 16 00		
		62 00	
			1,226 73
			$1,157 99
	To interest on balance of account due me, August 1st, 1847, $1,327 52 up to this date, a 8 per cent...	173 72	
	5 p. c. commis's on am't of receipts.... $1,226 73	61 34	
	5 p. c. " " disbursem'ts 1,857 20	52 86	
			287 92
	Balance due J. H. Bennett.....	.....	$1,445 91
	Galveston, March 20th, 1849.		

Filed 24th March, A. D. 1849.

JAMES LOVE, *Clerk.*
By AM. HUGHS, *Dep. clerk.*

The following accounts of disbursements were filed by John H. Bennett, one of the defendants in this cause, on the 4th day of May, 1850, and was offered in evidence; which accounts are in words and figures as follows, to wit, and is marked "A."

Disbursements made by John H. Bennett for negroes Henry, Matilda and her children, and Arthur, and Cameron.

1847.			
Aug. 9	To amount paid for materials for clothing for Matilda and her children.....	.....	$12 96
11	1 pair pants for Henry, 12s.; 1 pair shoes, per Arthur, 8s.....	$2 50	
	½ dozen files for Henry, 6s.; 1 shirt and 1 pair pants, per Cameron, 15s.....	2 63	
			5 13
Oct. 22	1 bottle castor oil per Cameron, 2s.; 1 pair shoes, per Lindsey, 6s.....	.....	1 00
Nov. 4	½ dozen files per Henry, 5s; 2 pair shoes per Arthur and Indiana, 20s.....	.....	3 13

Account—Continued.

Nov. 19	1 pair pants, $2 50; 2 shirts per Henry, 10s.	$3 75	
	sundry materials for dresses for Matilda and her children for the winter	15 00	
	1 pair shoes, per Matilda	1 50	
			$20 25
Dec. 11	1 pair pants, 1 pair draws, and 1 pair blankets, per Arthur		5 25
	paid Dr. William R. Smith's bill for attendance on negroes for yellow fever		50 00
29	paid State and county taxes on negroes		15 00
	1 coat, $5, 1 pair pants, $2; per Cameron		7 00
1848.			
Jan. 8	2 pair pants, $2 75; 1 pair suspenders, 15 cents, per Cameron	2 90	
17	23 lbs. bacon per Henry and family, *a* 5 cents	1 15	
			4 05
24	amount paid Maynard & Shaw, for groceries furnished Matilda's family from 1st June last to date	80 47	
	Less 2 bags corn given in exchange	5 74	
			74 73
28	100 lbs. bacon for Matilda's family	5 00	
	1 cord wood for Matilda's family	5 00	
			10 00
Feb. 5	1 pair blankets for Henrietta	2 50	
	1 chisel for Henry	0 50	
19	1 pair shoes, 10s., per Arthur, and 2 shirts for same, 12s.	2 75	
			5 75
	½ cord wood and drayage, per Matilda		2 50
23	1 barrel lime, per Arthur		3 00
25	2 pair shoes, per Matilda and Henry		2 38
29	F. A. Walley & Co.'s bill, per tools for Henry and Arthur		2 62
Mar. 10	paid Dr. Labadie for medicine for Arthur		1 00
April 6	½ cord wood and drayage for Matilda, $2 25; saw files, plane irons, &c., for Henry, $1 63		3 88
	Amount carried forward		231 63
	Amount brought forward		231 63
April 14	check for dresses and 1 pair shoes, per Henrietta	4 70	
22	2 shirts and 1 pair pants for Henry	4 00	
24	1 hand saw, $2 25; and 1 square, per Henry	3 75	
			12 45
28	1 pair shoes, per Arthur		0 75
Mar. 25	½ cord wood, per Matilda, (omitted)		2 25
May 15	115½ lbs. bacon, per Matilda, *a* 7 cents		8 08
June 3	1 pair shoes, 10s.; 1 pair pants, 10s.; 2 shirts, 12s., per Cameron	4 00	
	9½ bushels sweet potatoes, per Matilda, *a* 4s.	4 75	
			8 75
29	Water furnished Matilda and family to date		2 40
July 8	100 lbs. bacon.....do.....do	7 00	
15	2 shirts and 2 pair pants, per Arthur	4 25	
17	1 hand saw and files for Henry	3 75	
			15 00
31	amount Maynard & Shaw's bill for groceries furnished Matilda and family, from 24th January last to 5th instant		31 23
	1 cord wood and drayage	4 50	
	Drayage moving Matilda and family	3 10	
			7 60

Account—Continued.

Aug. 11	amount bill sundries for dresses for Henrietta	$1 50	
	1 white wash brush, per Arthur	0 50	
18	amount paid Henry's passage to H. G. Runnell's plantation	2 00	
19	1 pair shoes, per Arthur	1 25	
			$5 25
Sept. 11	2 bushels sweet potatoes, per Matilda	1 25	
	1 bottle castor oil, per Henry	0 50	
30	costs of court and fine, per Arthur	4 10	
	24 barrels water furnished Matilda and family and drayage	9 60	
			15 45
Oct. 19	2 bushels sweet potatoes, per Matilda	1 75	
21	amount J. G. Hasbrook's bill for sundries, Arthur and Henry and Matilda	8 26	
24	½ cord wood, drayage, &c.	3 50	
	30 barrels water furnished Matilda and family, and drayage on same	12 00	
			25 51
	Amount carried forward		366 35
	Amount brought forward		$366 35
Nov. 6	To 1 sack corn, 130 lbs., for Matilda, at 6s. per bus	1 95	
	5 bus. sweet potatoes, at 5s.	3 13	
	Drayage on same	20	
			5 28
14	Sundries for dresses for Matilda's children	6 80	
25	109 lbs. bacon, at 6½d;	7 08	
	1 coat, $5 50; 1 pr. shoes, $1 25, per Arthur	6 75	
30	4 cords wood, per Matilda	16 00	
			36 63
Dec. 20	Amount paid Dr. Herrick's bill medical attendance on Henry, at H. G. Runnel's plantation	7 00	
25	2 pr. pants, $4; 2 shirts, 12s.; 1 pr. brogans, 8s., per Cameron	6 50	
	1 blanket coat and 2 shirts, per Henry	6 25	
29	Amount paid city, county, and State taxes, for 1848	20 65	
30	Maynard & Shaw's bill, groceries furnished Matilda and family from 5th July last to date	41 00	
	Dr. Wm. R. Smith's bill for medical attendance on negroes for the year 1848	100 00	
	To rent of dwelling house for Matilda and family, 18 months to date, at $10 per mo	180 00	
			361 40
	1 pr. shoes, per Arthur		1 25
	Total amount of disbursements		770 00

Account of the earnings of Henry, Matilda and her children, and Arthur and Cameron.

1847.			
Aug. 1	By am't rec'd for Henry's hire	$6 00	
7	" " " Henry and Arthur's hire	10 50	
14	" " " Arthur's hire	11 00	
23	" " " Henry	9 25	
			$36 75
Sept. 6	" " " "	12 00	
11	" " " Arthur	11 00	
21	" " " "	18 50	
25	" " " Henry	20 00	
			61 50
Oct. 2	" " " Arthur	8 00	
13	" " " Henry & Arthur	9 00	
			17 00
Nov. 13	" " " " "	10 00	
6	" " " Arthur	15 00	
			26 00
Dec. 11	" " " "	15 90	
22	" " " "	7 00	
	" " " Henrietta	20 00	
			42 90
1848.			
Jan. 28	" " " Henry	.....	29 00
Feb. 23	" " " "	70 00	
29	" " " Arthur	37 00	
	" " " "	3 00	
			110 50
Mar. 24	" " " "	.....	13 15
June 30	" " " Henry	.....	90 00
July 21	" " " Henrietta	10 00	
31	" " " Henry & Arthur	16 00	
	" " " Arthur	60 00	
			86 00
Sept. 12	" " " Henry	27 68	
30	" " " Arthur	5 90	
	" " " Cameron, 14 mos. at $10	140 00	
			173 58
Dec. 31	" " " Arthur	60 00	
	" " " Henry	20 00	
			80 00
1849.			
Jan. 15	" " " Arthur	.....	12 00
	Total amount earned this to date	.....	$778 38

Upon which the following endorsement is made, to wit:
Offered in evidence, and filed 4th May, 1850.

JAMES LOVE, *M.*

"B."

Disbursements made by John H. Bennett for negroes Henry, Matilda and her children, and Arthur and Cameron.

1849.			
Aug. 20	To 20 lbs. bacon, per Henry, at 9c., $1 80; ½ cord wood, $2 25		$4 05
Sept. 20	1 overcoat, $6; 2 pr. thick pants, $5 50; 1 hat, $1 50; 1 pr. shoes, $1 25; tobacco, 40c.; 2 flannel shirts, $2; 2 hic. shirts, $1 20; 3 pr. socks, 90c., per Cameron	$18 75	
	½ cord wood, Matilda	2 25	
	Amount paid city taxes on negroes	6 25	
			27 25
Oct. 3	Lewis & Co.'s bill for meal, &c., for Matilda's family	5 08	
8	amount paid 1 coat, 7 50; 2 pr. pants, 5 50; 1 vest, 1 75; per Henry	14 75	
31	amount paid State and county taxes on negroes	15 00	
	amount paid 2 pr. pants 10 s. and 13s.; 1 pr. shoes, 12s.; per Arthur	4 37	
	amount paid 12 yards calico, 12s.; 6 yards check a 15c., 90c; 5 yards domestic, 5s; 1 pr. shoes, 10s.; per Indiana	4 28	
	amount paid ½ cord wood, for Matilda	2 25	
			45 73
Nov. 19	am ount paid Sydnor & Bones's bill, sundry materials for clothing for Henrietta and Indiana	11 40	
27	amount paid 1 coat, 7 00; 1 white wash brush, 1 00; per Arthur	8 00	
	amount paid ½ cord wood per Matilda	2 25	
30	amount paid 1 pair shoes, 1 00; 1½ yard domestic, 19c., per Indiana	1 19	
	amount paid steamer Billow, for passage up of Arthur to Col. Morgan's	1 50	
	amount paid E. S. Wood's bill, and brick trowel for Arthur	1 13	
			25 47
Dec. 22	amount paid R. Jones for meal, for Matilda and family	2 90	
	amount paid 2 pair pants, 4 50; 1 pair shoes, 12s., per Henry	6 00	
31	amount paid 2 hic shirts, 1 20; 1 pair brogans 1 50, per Arthur	2 70	
	amount paid 1 jack-plane, per Arthur	1 25	
	amount paid 1 pair shoes, per Henrietta, (omitted Sept. 12)	1 00	
	amount paid ½ cord wood, per Matilda	2 25	
			16 10
Jan. 20	amount paid 1 cord wood, per Matilda	4 50	
31	amount paid 1 pair boots, 3 00; tobacco, 1 00, per Cameron	4 00	
			8 50
Feb. 1	amount paid 1 pair pants, 1 50; 1 pair shoes, 1 25, per Arthur	2 75	
18	amount paid ½ cord wood, per Matilda	2 50	
	amount paid Justy Jones for attendance on Matilda during her confinement	8 00	
			13 25
Mar. 2	amount paid 1 pair shoes for Henrietta	1 25	

Statement—Continued.

Mar. 2	To amount paid ½ cord wood for Matilda	$2 50	
	amount paid Dr. Wm. R. Smith's bill, medical attendance on boy Leonidas, on Matilda and child, and on Cameron	60 00	
			$63 75
	Amount carried forward		204 10
1850.	To amount brought forward		204 10
April 20	amount paid Doctor Goodin's bill for medical attendance on Arthur and Indiana		25 00
	amount of account rendered up to March 21, 1849.	830 63	
	amount of account rendered up to July 19, 1849	74 25	
			904 88
	5 per cent. commissions on amount of disbursements $1,133 98 cts	56 70	
	5 per cent. commissions on amount of receipts $1,756 88 cts	87 84	
			144 55
1850.			
April 20	*Account of receipts.*		$1,278 52
	By amount received for hire of boys, Henry and Arthur, from 19th July, 1849, to date	293 25	
	amount received for hire of Cameron, same time	115 00	
	amount received for hire of Indiana, same time	24 00	
	Henrietta has, for a greater portion of the time, been placed in charge of the family, her mother having been ill, and also been confined during this time, rendering it necessary for her to be at home to take care of the family.		
	By amount of receipts as per account rendered up to March 21, 1849	1,008 63	
	amount of receipts as per account rendered up to July 19, 1849	268 00	
			1,756 88
	Balance to credit of negroes		$478 36

And upon which the following endorsement is made, to wit:
Offered in evidence, and filed 4th May, 1850.

JAMES LOVE, *Master*.

And on the 20th day of January, A. D. 1849, E. P. Hunt made an affidavit, and filed the same; which affidavit is in words and figures following, to wit:

Personally came before me, James Love, clerk of the United States district court, for the district of Texas, E. P. Hunt, who being sworn, deposes and says: That Matilda, the negro woman, involved in the suit of Butterworth and wife against Bennett and Hunt, in said cause, has been sick most of the time since the death of John D. Amis; that she has lost two children by miscarriage in that time; that said Matilda, and her children, Indiana, Leonidas, Theodosia, Havana, and Laura, have not been able to earn any thing since that time, but have been a great

expense for their doctor bills and support; that Henrietta has been hired out three months of the time, and the balance of the time her services were required to attend on her mother, Matilda; that Henry, Arthur, and Cameron, negroes involved in said suit, have each had an attack of the yellow fever in that time; that Henry, since the 1st Sept., 1848, and up to 1st Decr., 1848, was almost constantly sick from chills and and fevers, and intemperance, so that he could not earn any thing during that time; that Arthur has been more or less laid up with the rheumatism, and has been able to earn but little; that heavy expenses have been incurred for doctor's bills in the sickness of said *of said* negroes, and for their support; that whenever any of the negroes involved in said suit could be employed to earn any thing, they have been so employed; that a correct account has been kept of their earnings, and also of all expenses incurred for them; statements of which account are hereto attached as a part of this affidavit, which statements are correct to the best of his knowledge and belief.

E. P. HUNT.

I certify that the above affidavit, and the account accompanying the same, and marked "A," was subscribed and sworn to before me, on the 20th January, 1849.

JAMES LOVE, *Clerk.*

Filed 20th January, 1849.

JAMES LOVE, *Clerk.*

And on the 23d day of January, 1849, John H. Bennett, one of defendants in this cause, filed the following account; which account is in words and figures following, to wit:

("B.")

Statement of disbursments made by John H. Bennett for account of the negroes Lindsey, Billey, Betsey, and her son Ellick.

1847.			
August 6	To 1 pr. shoes, per Lindsey		$1 00
Sept'br 11	sundry clothing, per Lindsey		3 00
Octo'r 11	1 pr. brogans " "		1 25
Nov. 19	2 pr. pants, per Billy	$3 00	
27	13¼ crash, a 1s. per Lindsey	1 66	
			4 66
Dec'r 3	2 pr. pants per Lindsey, 16 s. and 15 s.	4 25	
	1 pr. brogans "	1 50	
	1 shirt, 1 pr. pants, and 1 pr. shoes, per Billy	4 25	
			10 00
4	cash paid dentist, for Betsey	2 00	
10	am't paid Doct. Wm. R. Smith, bill for medical attendance on Betsey and Ellick	75 00	
			77 00
1848.			
Febr'y 17	2 jackets and 1 pr. pants, per Billy		5 50
March 3	1 coat, per Billy	5 00	
13	1 pr. shoes, per Lindsey	1 25	
			6 25

Statement—Continued.

1848.			
April 3	To am't paid Dr. R. Neal's bill for medical *for medical* attendance on Lindsey	$10 00	
13	1 palm hat for Ellick	0 40	
22	2 shirts and 2 pr. pants, per Lindsey	4 00	
29	sundries for dresses, per Betsey	2 40	
			$16 80
May 2	1 pr. domestics for Betsey, 27¾ yards, a 1 per cent.		3 47
June 7	2 shirts, per Billy	2 00	
24	1 pr. pants, per Lindsey	2 00	
			4 00
August 27	1 pr. shoes, per Betsey	1 00	
	2 shirts, $2; 1 pr. pants, $1 50, per Lindsey	3 50	
			4 50
Sep. 30	cash paid for whipping Lindsey	1 00	
	1 pr. pants and 2 shirts, per Billy	3 75	
			4 75
Oct'ber 21	1 palm hat, per Lindsey, 3s.; 1 pr. shoes, per Billy, 12s.		1 88
Nov'r 20	1 pr. shoes, per Lindsey, 10s.; 1 pr. pants, 10s.		2 50
Dec. 31	am't of Dr. Wm. R. Smith's bill for medical attendance on Betsey and Lindsey		75 00
	Total amount of disbursements		$221 56

Statement of the earnings received by John H. Bennett from the hire of the negroes Lindsey, Billy, and Betsey.

1847.			
August 7	By am't received from hire of Lindsey		$7 00
Sept. 6	" " "	$10 00	
17	" " "	14 00	
			14 00
Oct'ber 2	" " "		10 00
Nov. 27	" " "		7 50
Dec 29	" " "		2 00
1848.			
Janu'y 12	" " "	2 00	
" 20	" " "	3 40	
			5 40
March 8	" " "		5 20
June 1	" " "		10 00
July 31	" " "		8 00
Nov. 20	" " "		3 00
Dec. 31	By 14 month's hire of Billy, a $6		84 00
	Betsey has been living at E. P. Hunt, with her child Ellick, and has had the attention of his family during her long sickness, and has been furnished with such things as were necessary for her, including medicines by him; and it is considered that her services, thus far, have been no more than a reasonable compensation for things furnished her and the care taken of her during her sickness.		
	Total amount of receipts		$156 10

Filed January 23d, 1849.

JAMES LOVE, *Clerk*,
By A. M. HUGHS, *D. C.*

This day appeared before me, James Love, clerk of the district court of the United States, for the district of Texas, John H. Bennett, who, first having been duly sworn, deposes and says: That since he had charge of the negroes Betsey, Ellick, Billey, and Lindsey, who were conveyed to this affiant by a bill of sale from John D. Amis, deceased, that the said negroes, taken as a whole, have been generally a source of annual expense to him. This affiant further says, that the account of receipts and expenditures pertaining to the following negroes, to wit, Arthur, Cameron, Henry, Matilda and her six children, Henrietta, Indiana, Leonidas, Theodosia, Havanna, and Laura, which has been rendered to the master in chancery by E. P. Hunt, is just and true in every particular.

JOHN H. BENNETT.

Subscribed and sworn to before me, 23d January, 1849.

JAMES LOVE, *Clerk.*

Filed January 23, 1849.

JAMES LOVE, *Clerk.*

And afterwards, on the 23d day of January, A. D. 1849, E. P. Hunt, one of the defendants in this cause, filed an affidavit therein, which affidavit is in words and figures following, to wit:

This day personally appeared before me, James Love, clerk of the district court of the United States, for the district of Texas, E. P. Hunt, who, having first been duly sworn, deposes and says: That he is well acquainted with the negroes Betsey, Ellick, Billy, and Lindsey, who were some time since conveyed by a bill of sale to John H. Bennett by John D. Amis, deceased; that since the said conveyance was executed, negro Betsey has been under the special care and control of this affiant, and he has no hesitation in saying that, owing to her frequent and protracted spells of sickness, her expenses have more than doubled her annual earnings; and that had it not been for the special care and attention which was constantly paid to her by this affiant and his family, that the expenditures incurred on account of her would have trebled her annual earnings; that Ellick is a boy of only six years of age, and has been a source of annual expense, as well from his utter inability to perform any service, as also on account of the medical bills which have been incurred for him: that Leonidas, from his general bad conduct, and from his notorious character for dishonesty, has rendered it utterly impracticable to make his services a source of profit by hire, which, his great indisposition to work or perform any species of services, taken in connexion with the medical bills which have been incurred for attendance on him when sick, have caused his expenses to over-balance his earnings since John H. Bennett has had charge of him; that Billy has been hired during the last fourteen months, at the rate of six dollars per month. This affiant further says, that there is an account of the disbursements and receipts, which have been made and realized on account of the foregoing ne-

groes since John H. Bennett has had the control of them, which is filed with this affidavit, which [he] wishes to be referred to and made a part thereof.

E. P. HUNT.

Subscribed and sworn to before me, 23d January, 1849.

JAMES LOVE, *Clerk.*

Filed 23d January, 1849.

JAMES LOVE, *Clerk.*

And on the 5th day of February, 1849, John H. Bennett, one of the defendants in this cause, filed an account, which account is in words and figures as follows, to wit:

John D. Amis's estate in account current with John H. Bennett; also the account of receipts and disbursements for sundry negroes.

1847.			
August 1	To amount balance of my account against John D. Amis, up to the [time] of his death, after allowing all payments and credits due him.....	.....	$1,327 52
1849.			
Jan. 12	To amount of disbursements on account of negroes Henry, Matilda and her children, and Arthur and Cameron, as per account rendered the clerk of the United States district court.....	$770 91	
	To amount of disbursements for account of negroes Lindsey, Billy, Betsey, and Ellick, as per account rendered the clerk of the U. S. district court.....	221 56	
			992 47
			2,319 99
1849.	Cr.		
Jan. 12	By amount of receipts for hire and services of the negroes Henry, Matilda and her children, Arthur, and Cameron, as per account rendered the clerk of the U. S. district court.....	778 38	
	By amount of receipts for hire and services of the negroes Lindsey, Billy, Betsey, and Ellick, per account rendered the clerk U. S. district court, the same being all the receipts since the death of John D. Amis to date.....	156 10	
			934 48
			1,374 51
	Balance due John H. Bennett without interest or commissions, chargeable on the receipts and disbursements on account of negroes at this date.		

GALVESTON, *January* 12th, 1849.

JNO. H. BENNETT.
E. P. HUNT.

Subscribed and sworn, February 5th, 1849.

JAMES LOVE.

Filed February 5th, 1849.

JAMES LOVE, *Clerk.*

UNITED STATES OF AMERICA,
United States district court, district of Texas.

SAMUEL F. BUTTERWORTH and Wife
vs.
JOHN H. BENNETT and E. P. Hunt, administrator, &c., of J. D. Amis. } In chancery.

I, James Love, clerk of the United States district court, for the district of Texas, certify, that the foregoing is a true and complete transcript of the record and all the proceedings had in the above entitled cause, containing one hundred pages, and this page, numbered from one to one hundred, inclusive.

In testimony whereof I have hereunto subscribed my name as clerk aforesaid, and caused the seal of court to be affixed on the [L. S.] twenty-first day of September, in the year of our Lord one thousand eight hundred and fifty.

JAMES LOVE, *Clerk.*